Final Report

The Commission of Inquiry

to Investigate and Inquire into and Report or Take

Necessary Action on the Bomb Attacks on 21st April 2019

Volume 1

Commission Report

31st January 2021

TO:

His Excellency Gotabaya Rajapakse,

President of the Democratic Socialist Republic of Sri Lanka,

Presidential Secretariat,

Colombo 01.

Your Excellency,

Former President Maithripala Sirisena was pleased to issue a Presidential Warrant dated 21st September 2019 (Appendix I) in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393) as amended, appointing us as Commissioners to investigate and inquire into, take necessary action to enable future legal actions, and report on the following matters:

01. To call and receive public complaints, information and other materials against public servants / officers or other persons who were working at that time or who still work or any other persons who are alleged who have direct or indirect connections to the bomb explosion that took place on 21st April, 2019 causing loss of life or damaged to properties or regarding acts or abuse of misuse of our and such other alleged acts and / or omissions,
02. To held prompt , impartial, complete investigations and inquiries regarding complaints, information and other materials referred to in paragraph 1 above,

03. To identify persons and organizations who are directly or indirectly connected to these terrorist acts referred to in paragraph 1 above,

04. To identify officers and authorities responsible who failed to pre-determine that a terrorist and extremist activities of this nature would take place within the country and to ascertain matters incidental to it and who failed or neglected to take action according to law and not taking proper actions in this regard,

05. To identify all authorities who are responsible for failure to prevent the terrorist attacks that took place on 21st April, 2019 and for identify the authorities, who failed to perform their duties and did not take proper action due to incapacity,

06. To identify persons and organizations who are connected with public protests, acts of sabotage, causing damage to properties and persons and thereby causing public unrest, after the attack took place on 21st April 2019,

07. To identify persons, organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and which disturbed social order and disrupted the social integrity and caused racial disturbances,

08. To ascertain the circumstances and causes that led to and the nature and particulars of the incidents which took place in the Island on 21st April 2019 and resulting in –

(a) Death or total disablement or injury to persons;

(b) The destruction or damage of property belonging to or in the possession of any state institution or state or a place of religious worship or private institution;

09. Whether any person or body of persons or any organization or any person or persons connected with such organization –

(a) committed or conspired to commit;

(b) aided or abetted in or conspired to aid or abet financially / physically or psychologically in the commission;

(c) In any manner assisted encourage or were concerned in or conspired to assist or encourage the commission of any of the acts referred to in paragraph (1) and to recommended such measures as any be necessary-

(i) to rehabilitate or assist in any other manner the persons affected by such course of action;

(ii) to ensure the safety of the public;

(iii) to prevent the recurrence of such incidents.

10. To identify which of the acts coming within the ambit of matters referred to in above, should be forwarded to the Commission to Investigate Allegations of bribery or corruption or to the police or to any other law enforcement authority or statutory body for the conduct or necessary investigations and inquiries with the view to instituting criminal proceeding against persons alleged to have committed to the said officers,

11. To transmit to the Attorney General such material on investigations and inquiry, enabling the Attorney General to consider the institution of criminal proceedings against persons alleged to have committed the said offences;

12. To present to me recommendations to the commission regarding what action if any, should be taken against those held responsible for having committed and acts of wrongdoing and recommendations aimed at preventing the occurrence of such offences and acts of wrongdoing in the future,
13. To make recommendations on measures to be taken to prevent the possible damage to national security and national unity by such acts of terrorism and extremism.

A team of officers of the Hon. Attorney General's Department with the concurrence of the Hon. Attorney-General assisted the Commission of Inquiry under the direction and supervision of the Commission of Inquiry, by examining relevant documents and interviewing witnesses and presenting evidence for the examination of the Commission of Inquiry.

A team of officers from the Sri Lanka Police assisted the Commission of Inquiry under the direction and supervision of the Commission of Inquiry by investigating and recording statements.

Several persons were represented by Counsel, under and in terms of section 16 of the Commissions of Inquiry Act, on the basis that such persons are implicated or concerned in the matter under inquiry and therefore, should be represented at the Inquiry or that such persons consider it desirable that they should be represented by Counsel at the Inquiry.

The work of the Commission of Inquiry began with the publication of paper notices in all three languages calling for public representation on the matters set out in its mandate. They were published on 30th September 2019 (Appendix II). A total of 71 representations were received by the designated date. However the respect, recommend that these matters be considered before deciding to make them public.

We are now pleased to submit to Your Excellency, the following Report, which has been signed by us, both below and at the end of the Report, in terms of the requirements of Section 2(6) of the Commissions of Inquiry Act No. 17 of 1948 as amended.

On this 31st day of January 2021.

.....

Justice Janak De Silva

Judge of the Supreme Court

Chairman, Commission of Inquiry

.....	.....
Justice Nissanka Bandula Karunarathna	Justice Nihal Sunil Rajapakse,
Judge of the Court of Appeal	Retired Judge of the Court of Appeal
.....	.....
Atapattu Liyanage Bandula Kumara Atapattu	Ms. W.M.M.R. Adikari,
Retired Judge of the High Court	Retired Ministry Secretary

Commission of Inquiry decided to continue to accept any public representation during its tenure notwithstanding the failure to tender within the due date.

The work of the Commission began with investigations conducted as part of its Mandate. 1588 statements were recorded by the investigating team. After considering the evidence in the statements, the Commission examined 457 witnesses. Their evidence is recorded on over 37,314 pages of proceedings. A total of 2377 documents including books 206 audio and video recordings were produced as evidence. This evidence, documents and audio recordings have been examined in detail to prepare this Report. The Report prepared by us is contained in Volume 1 and consists of 32 Chapters. Our determinations and report of the specific issues set out in the Mandate are contained in Chapter 30. Our recommendations are set out in Chapter 31. A brief Executive Summary is contained in Chapter 32.

Volume 2 Part I of the Report contains evidence obtained in open. Volume 2 Part II contains evidence of witnesses obtained in camera as provided for in the Commissions of Inquiry Act (Chapter 393) as amended. Volume 2 Part III contains evidence of witnesses whose part testimony was given in open and part in camera. Volume 3 of the Report contains marked documents marked as "C". Volume 4 contains documents marked as "X". Volume 5 contains documents tendered on behalf of witnesses by their legal counsel or by the witness personally. Volume 6 contains the Marked Document Index.

We draw Your Excellency's attention to the fact that, the documents marked "X" have classified information obtained through intelligence agencies of the State. Furthermore, evidence pertaining to national security including intelligence and information was obtained through witnesses testifying in camera. We would, with

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ACKNOWLEDGEMENTS

We wish to place on record our deep appreciation to the all the officers of the Commission of Inquiry for the great dedication with which they served the Commission of Inquiry. From the time we began work, all of them gave us their full support to execute the work successfully.

There were many days when the Commission of Inquiry sat in the morning and proceeded till the early hours of the next day. Yet all the staff returned in the morning and began the day's work. Not a complaint was made about the huge workload that they were asked to perform. Their work ethic is an example to all public officers. The whole staff shared the common sense of duty of the Commission to do justice to the dead and injured. That was never compromised by the Commission or any of the Staff.

We wish to place on record our deep appreciation of the dedicated services given to the Commission of Inquiry by Mr. Buwaneka Herath who functioned as the Secretary of this Commission from its inception. Mr. Herath has attended to his duties with great commitment, efficiency and dedication and has at all times been cheerful. We are indebted to him for enabling us to function without any disruption, over the demanding and, at times exhausting period of one year and three months during which the Commission of Inquiry has functioned.

The Commission wishes to also place on record our profound appreciation to Additional Solicitor General Ayesha Jinasena, President's Counsel for the exceptional leadership given to the team of officers from the Attorney General's department. The great dedication and competence with which she performed her duties was reflected on all the members of the team. They worked as a team late into the nights and returned cheerfully the next morning to continue with their functions. They performed exceptionally.

We also wish to place on record our deep appreciation to Senior Deputy Inspector General of Police Mahesh Welikanna for ably leading the team of Police officers of the investigating unit. He gave exceptional leadership and ensured that all the tasks assigned by the Commission of Inquiry were duly performed. He was ably assisted by the Director of the Investigating Unit Senior Superintendent of Police Priyantha Liyanage whose invaluable services are also appreciated by the Commission of Inquiry. The investigation unit performed exceptionally.

Commission Staff

01	Mr. H.M.B.P. Herath	Secretary
02	Mr. D.A. Dumendrawansa	Administrative Officer
03	Miss. Hasini Ruwahari Mukadange	Legal Officer
04	Mr. M. Wimal Shantha de Silva	Interpreter / Muḍliyar
05	Mr. John Kandasamy	Translator Sinhala-Tamil
06	Mr.D.Y.S.Ushantha Rathnaweera	Development Officer
07	Mrs. H.A.Geethika Lakmali	Development Officer
08	Mr.W.M.D.Prabhath	Development Officer
09	Mrs.H.C.Ruvini Nisansala Fernando	Development Officer
10	Mrs. T.Chethana Sandamali	ICT Assistant
11	Mr. E.Surawansa	Research Officer
12	Mrs. B. Chandrika	Management Service Officer
13	Mrs. A.W.M.I.Nirupa de Silva	Management Service Officer (Stenographer – English)
14	Mrs. H.M. Indrani Herath Manike	Management Service Officer (Stenographer – Sinhala)
15	Mrs. C.D.Dasanayaka	Management Service Officer
16	Mr.J.N.P.Kaluthotage	Management Service Officer
17	Mrs. D.M.N.N. Kumari Dissanayake	Management Service Officer
18	Ms.D.A.M.Subhashini Dasanayake	Management Service Officer
19	Mrs. R.P.M.C. Rajapaksha	Management Service Officer
20	Mrs. K.M.Dhammika Upashanthi Perera	Management Service Officer (Stenographer – Sinhala)
21	Mrs. S.D. Berugoda	Management Service Officer (Stenographer – Sinhala)

22	Mrs. M.D.M.Yamuna Sandasali Dassanayake	Management Service Officer (Stenographer – Sinhala)
23	Miss.K.M.Chandima Dilhani	Management Service Officer (Stenographer – Sinhala)
24	Miss. D.G. Nilmini Kumari	Management Service Officer (Stenographer – Sinhala)
25	Miss. P.G. Sachini Madhushika Sewwandi	Management Service Officer (Stenographer – Sinhala)
26	Mr. W. U.Nandana Rodrigo	Sound Controller
27	Mr. N.P.R.Prasanna Hemadasa	Driver
28	Mr. H.K.D.R. Sampath	Office Employment Service I
29	Mr. G.G.D.K. Bandara	Office Employment Service III
30	Mr. E.M.Thilan Danushka Jayathilake	Office Employment Service III
31	Mr. R. Quintes Fernando	Office Employment Service
32	Mr. R.M.Somarathna	Office Employment Service

Attorney General's Department Prosecution Team

	Name	Designation
01	Miss.A.B.A.Jinasena	Additional Solicitor General
02	Mr. S.Dissanayaka	Senior State Counsel
03	Ms.S.P.H.Jayaweera	Senior State Counsel
04	Mrs. Nayana Seneviratne	Senior State Counsel
05	Ms.A.N.K.De Alwis	State Counsel
06	Mr.C.D.S.Bandara	State Counsel
07	Mr.K.D.Sampath	State Counsel
08	Mr.K.S.Arindra Jayasinghe	State Counsel

Investigation Unit

01	W.M.R. Mahesh Welikanna	Senior Deputy Inspector General of Police
02	Priyantha Liyanage	Senior Superintendent of Police
03	P.K. Serasinghe	Senior Superintendent of Police
04	G.D. Stanislaus	Retired Senior Superintendent of Police
05	K.A.R.W. Kumarapeli	Chief Inspector
06	P.M.A. Mahinkanda	Chief Inspector
07	R.K .Thirunawkarasu	Chief Inspector
08	A.G. Aluthgedara	Chief Inspector
09	W.P.S.D. Wijesinghe	Chief Inspector
10	W.M.D. Weerasinghe	Chief Inspector
11	T.B.S. Kalyanathunga	Chief Inspector
12	J.M.S. Jayamahamudali	Inspector of Police
13	A.M.N.P. Adikaram	Inspector of Police
14	M.D.C.N. Gunathilaka	Inspector of Police
15	R.A.J. Janitha kumara	Inspector of Police
16	T.N. Silva	Inspector of Police
17	G. Niluka Dilrukshi	Women Inspector of Police
18	T.M.P.B. Thennakoon	Sub Inspector
19	H.D.S.S. Sampath	Sub Inspector
20	N.T.S.N. Prasad	Sub Inspector
21	L.D.J.R. Nanayakkara	Police Sergeant 26513
22	P.A.G.N.Wijeweera	Police Sergeant 47232
23	L.A. Mahindasoma	Police Sergeant 12926

24	G.W Gunasekara	Police Sergeant 25322
25	K.M.G. Kumara	Police Sergeant 30328
26	R.W.C.N de Silva	Police Sergeant 34908
27	B. Nihal	Police Sergeant 34772
28	K.A.P.I. Abeyrathna	Police Sergeant 62355
29	H.S. Priyantha	Police Sergeant 3819
30	N.M.S.S. Nishanka	Police Sergeant 44871
31	M.A.R. Jayathilaka	Police Constable 68979
32	R.M.D.L. Rathnayake	Police Constable 69666
33	H. Roshan Jayathilaka	Police Constable 70215
34	W.J.S. Wijesena	Police Constable 71831
35	S.M.S. Kumara	Police Constable 78185
36	T.M.N.P. Tennakoon	Police Constable 87154
37	T.S. Wickramathilaka	Police Constable 91689
38	J. Duritha	Women Police Constable 6723
39	M.E.M.U.L. Ekanayeka	Women Police Constable 8588
40	S.K.D.M.A. Bandara	Women Police Constable 9930
41	K.P.I. Gunawardana	Police Constable Driver 15656
42	G.E.M. Kolabage	Police Constable Driver 16115
43	M.W.S.I Samaranayake	Police Constable Driver 80655
44	K.M.M Wijerathna	Police Constable Driver 80676

Abbreviations

ACJU	All Ceylon Jamayyathul Ulma
ACTJ	All Ceylon Thowheed Jamath
ASP	Assistant Superintendent of Police
BBS	Bodu Bala Sena
CI	Chief Inspector of Police
CDS	Chief of Defence Staff
CNI	Chief of National Intelligence
COI	Commission of Inquiry
CTU	Counter Terrorism Unit
CID	Criminal Investigation Department
DIG	Deputy Inspector General
DMI	Directorate of Military Intelligence
FETO	Fethullah Gulen Organization
FCID	Financial Crimes Investigation Department
GOSL	Government of Sri Lanka
IGP	Inspector General of Police
IP	Inspector of Police
ICM	Intelligence Coordinating Meeting
IS	Islamic State
ISIS	Islamic State of Iraq and Sham
IASWJ	Isthihad Ahlul Sunnath Wal Jamath
JASM	Jamaath Ansari Sunnathul Mohammadiya
JMI	Jamaathe Millathi Ibrahim

MOD	Ministry of Defense
MOFA	Ministry of Foreign Affairs
NIB	National Intelligence Bureau
NSC	National Security Council
NTJ	National Thowheed Jamath
PC	Police Constable
PTA	Prevention of Terrorism Act No.7 of 1979
Sgt	Sargent of Police
PSC	Select Committee of Parliament of the Easter Attack
SDIG	Senior Deputy Inspector General
SSP	Senior Superintendent of Police
STF	Special Task Force
SLJI	Sri Lanka Jamaat – E- Islami Organisation
SLJISM	Sri Lanka Jamaat- E-Islami Student Movement
SLTJ	Sri Lanka Thowheed Jamath
SIS	State Intelligence Service
SI	Sub-Inspector of Police
SP	Superintendent of Police
TID	Terrorist Investigation Department
WAMY	World Assembly of Muslim Youth

The report contains references to the same person at several places. In order to limit the usage of space, a list of abbreviations of the names of such persons is set out along with the name they were known within Zaharan's group. The abbreviation is given first, followed by the full name and finally the name used within the organization.

1. Zaharan - Mohammadu Cassim Mohammadu Jaharan – Abu Ubaida
2. Naufer - Mohammadu Ibrahim Mohammadu Naufer – Abu Shaid
3. Rilwan - Mohammadu Cassim Mohammadu Rilwan – Abu Jal Al Quittal
4. Shaini - Mohammadu Cassim Mohammadu Shaini
5. Milhan –Hayathu Mohammadu Ahamadu Milhan - Abu Sila/Abu Halith
6. Ilham – Mhammad Ibrahim Ilham Ahamed – Abu Bara
7. Inshaf – Mohammad Ibrahim Inshaf Ahamed
8. Sadeeq – Mohammad Ibrahim Sadeeq Abdulla – Abu Umar
9. Hasthun – Achchi Mohammadu Mohamadu Hasthun – Abu Mohammad
10. Jameel – Abdul Latheef Jameel Mohammad – Abu Hamza
11. Muath – Alawudeen Ahamed Muath
12. Shahid – Mohammad Ibrahim Abdul Haq - Abu Falah
13. Mubarak – Mohomad Azam Mohomad Mubarak – Abu Abdulla
14. Gaffor Mama - Mohommad Sareebu Adam Lebbe
15. Azad – Mohammad Nazar Mohammad Azad - Abu Mukthar
16. Army Mohideen - Badurdeen Mohomed Mohideen
17. Niyas – Ahamed Lebbe Mohammad Niyas
18. Hadiya – Abdul Cader Fathima Hadiya
19. Sara – Mahendran Pulasthini aka Sara Jesmin
20. Omarkatha – Fathima Shifana Omarkaththa

Chapter 1

Introduction

April is a month of celebration for a majority of Sri Lankans. The Sinhala and Hindu New Year are celebrated towards the middle of the month. It is a time for families to get together and celebrate the dawn of another New Year. It also has a religious element when the Christians celebrate Easter Sunday.

21st of April 2019 dawned as yet another day and the majority of Sri Lankans were still enjoying time with their families. The Christians were celebrating Easter Sunday when tragedy struck. Explosions were heard at three leading hotels, three famous churches and two other locations. Several hundreds of people including children were killed while hundreds more suffered injuries.

After more than ten years from the end of the civil war, the ugly face of terrorism was witnessed by the nation.

In the aftermath of the attacks, President Maithripala Sirisena appointed a three-member Committee headed by Justice Vijith Malalgoda President's Counsel, Judge of the Supreme Court to look into the incident. The Report of the Committee had in addition to its findings recommended the appointment of a Commission of Inquiry. Later a Parliamentary Select Committee was also appointed to look into the events.

President Maithripala Sirisena issued a Presidential Warrant dated 21st September 2019 (Appendix I) in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393) as amended, appointing us as Commissioners to investigate and inquire into, take necessary action to enable future legal actions, and report on the matter set out in the Warrant.

We were handed our letters of appointment by President Maithripala Sirisena on 23rd September 2019. He informed that the Commission of Inquiry was appointed due to the request made by His Eminence Malcom Cardinal Ranjith, Archbishop of Colombo and the recommendation made by Justice Vijith Malalgoda Committee.

Mr. Buwaneka Herath was appointed as the Secretary to the Commission.

The Commission of Inquiry established its office at the B.M.I.C.H. as it was envisaged that a large staff was needed to perform the sweeping Mandate assigned to the Commission of Inquiry.

We had our first meeting on 1st October 2019 at its office situated at 1st Floor, Block No. 5, Bauddhaloka Mawatha, Colombo 7. The Commission of Inquiry was vested with power in terms of Section 23 of the Commissions of Inquiry Act (Chapter 393) as amended to obtain the assistance of public officers to assist it in the investigations and inquiry. The immediate task was to form a team of officers to assist the Commission of Inquiry in its functions and to provide them with the necessary facilities.

This process was slightly delayed due to the declaration of the Presidential Elections and as an earlier Commission of Inquiry continued to function for a short time at the premises intended to be used by the Commission of Inquiry.

Thereafter, the Commission of Inquiry sought and obtained the assistance of officers from the Attorney-General's Department, Sri Lanka Police, Presidential Secretariat, Sri Lanka Computer Emergency Readiness Team and the Department of Information. Additional staff was recruited in terms of the applicable circulars.

In addition, the Commission of Inquiry obtained the services of designated officers from the Registration of Persons Department, Financial Intelligence Unit, Department of Immigration and Emigration and the Telecommunications Regulatory Commission.

When the Commission of Inquiry was appointed, it was given only the powers that were generally given to other Commissions of Inquiry. However, after having examined its Mandate, we were of the view that additional powers must be requested in terms of Section 8 of the Commissions of Inquiry Act (Chapter 393) as amended if we are to execute the Mandate effectively. This request was granted.

The Commission was empowered to call for and receive public complaints, information and other materials against public servants/officers or other persons in connection with the incidents in the Mandate. Accordingly notices were published on 30th September 2019 in all three languages in Dinamina, Divaina, Lankadeepa, Aruna, Mawbima, Thinakaran, Weerakesari, The Island, Daily Mirror, daily News and Ceylon Today (Appendix II). The same notice was re-published on 6th October 2019 in Sunday Lankadeepa, Thinakaran and Sunday Observer.

A total of 71 representations were received by the designated date. However the Commission of Inquiry decided to continue to accept any public representation during its tenure notwithstanding the failure to tender by the due date. The Commission of Inquiry received representations from His Eminence Malcom Cardinal Ranjith, Archbishop of Colombo.

In view of the intimation made by the President that one reason for the appointment of the Commission of Inquiry was the request made by His Eminence Malcom Cardinal Ranjith, Archbishop of Colombo, it was decided to allow him legal representations from day one of the proceedings. Accordingly, Mr. Shammil Perera President's Counsel and a team of lawyers were present throughout the reception of evidence including evidence in camera.

The Commission of Inquiry decided to first review all representations received. Thereafter an opportunity was given to the party to make a statement to the investigating unit of the Commission of Inquiry. A decision was taken thereafter on whether the evidence should be led before the Commission of Inquiry. This procedure assisted the Commission of Inquiry to exclude irrelevant material.

The Commission of Inquiry was called upon to make an important decision when the Attorney General exercised his powers in terms of Section 26 of the Commissions of Inquiry Act (Chapter 393) as amended, and sent Senior Additional Solicitor General Sarath Jayamanne President's Counsel to object to the Commission of Inquiry calling as witnesses any person who were in custody or detention over the Easter Sunday attacks.

The complete submission made by the learned President's Counsel can be found at Appendix III. A part of it is reproduced below:

ගරු සභාපතිතුමනි, ගරු කොමසාරිතුමනි, කොමසාරිස්තුමියනි, බොහෝම ස්තුතියි මට නීතිපතිතුමා වෙනුවෙන් එතුමා වෙනුවෙන් මෙම පනතේ 26 වන වගන්තිය ප්‍රකාරව සැලකිරීමක් කිරීමට අද අවස්ථාව ලබා දීම ගැන. මම මේ අවස්ථාව නීතිපතුමාගේ උපදෙස් පිට යෙදා ගනු ලබන්නේ වැදගත් නීතිමය සහ සිද්ධිමය කාරණයක් සම්බන්ධයෙන්. විශේෂයෙන්ම අද දිනයේ සහ මින් ඉදිරියට මට දැන ගන්න ලැබෙනවා මේ වනතෙක් සැකකරුවන් ලෙස හෝ සැකකාරියන් ලෙස විමර්ශකයන් විසින් අත්අඩංගුවේ තබා ගෙන සිටි යම් සැකකරුවන් ඔබ ගරුතුමන්ලාගේ කොමිෂන් සභාව ඉදිරියේ සාක්ෂිකරුවන් ලෙස කැඳවීමට යම් සුදානමක් තිබෙන විත්තිය ගරු නීතිපතිතුමාට දැන ගන්නට ලැබී තිබෙනවා. ඉතින් ගරු නීතිපතිතුමා වෙනුවෙන් ඔබතුමාලා ඉදිරියේ මා කරන දේශනයේ මුඛ්‍ය පරමාර්ථය මුලින්ම කෙටියෙන් සඳහන් කරනවා නම් සියලුම නීතිමය සහ අනෙකුත් කාරණා සලකා බලන විට සාක්ෂිකරුවන් ලෙස හෝ වෙනත් ආකාරයකින් මෙම සැකකරුවන් කැඳවීම අනාගතයේ දවසක නීතිපතිතුමා වෙතට විතරක්ම පැවරෙන නඩු පැවරීමේ බලයත් පැමිණිල්ල මෙහෙයවීමේ බලයටත් ප්‍රබල අගතියක් සිද්ධ වෙනවා. ඒ නිසා මගේ අවසාන ඉල්ලීම වන්නේ ඒ ඉල්ලීම ප්‍රකාරව මේ ආකාරයෙන් විමර්ශකයන් භාරයේ පොලීසිය භාරයේ රඳවා නියෝග ගැනීම මත රඳවා සිටින යම් යම් සැකකරුවන් මේ කොමිෂන් සභාව ඉදිරියේ දී සාක්ෂිය සඳහා කවර ආකාරයෙන් හෝ කැඳ නොවන ලෙස.

Having given careful consideration to the submissions, the Commission of Inquiry by majority (with one dissent) overruled the objections and held that whether a person in custody or detention will be called as a witness will be decided on a case by case basis and decided to call Hadiya, wife of Zaharan as a witness. Omarkatha, wife of Jameel was also among the witnesses summoned.

Several persons were represented by Counsel under and in terms of Section 16 of the Commissions of Inquiry Act (Chapter 393) as amended on the basis that such persons are implicated or concerned in the matter under inquiry and therefore should be represented at the inquiry or that such person considers it desirable that he should be represented by Counsel.

The Commission of Inquiry decided that some site visits may assist in better understanding the evidence. Visits were made to Ninthavur, Samanthurai,

Saindamarudu and Kattankuddy where some of the safe houses were observed. The visit to Saindamarudu was particularly of assistance to understand the environment in which several family members of the suicide bombers committed suicide on 26th April 2019.

On 15th August 2020 the Commission of Inquiry visited St. Anthony's Church, Kochchikade and St. Sebastian's Church, Katuwapitiya.

The work of the Commission of Inquiry was interrupted twice due to the Covid 19 pandemic. The first Covid 19 spread in the country, resulted in the work stopping from 12th March 2020 to 13th May 2020. In early October 2020 an officer attached to the investigating unit of the Commission of Inquiry was detected with Covid 19. It was decided that the whole staff should undergo quarantine for a period of fourteen days. This resulted in the stoppage of work from 27th October to 12th November 2020.

The period of the Commission of Inquiry saw the conduct of the Presidential Elections in November 2019 and the General Elections in 2020. Since the matters falling within the Mandate was a matter of political importance, the Commission of Inquiry did not have sittings for about a week each on both occasions.

Our proceedings have been an effort by the Commission of Inquiry to ascertain on the basis of reliable evidence the facts relating to the matters which we have been asked to investigate and inquire into and report on and to draw such conclusions and inferences as are permitted by law from such facts which have been established by reliable evidence. We have emphasized that we will not make findings on the basis of suspicion, surmise or speculation.

We have sought to be transparent, independent, impartial, thorough, and non-partisan. Hence we made every attempt to make the proceedings as open as possible so that the public and media had access to the evidence before the Commission of Inquiry. However, the Mandate of the Commission of Inquiry required it to obtain sensitive intelligence from several Sri Lankan intelligence agencies which has great impact on national security. Therefore, the testimony of several witnesses was led in camera as provided by law.

The Commission of Inquiry has made every endeavor to provide the most complete account of the events of 21st April 2019 and its antecedents. This final report is only a summary of what we have done. Only a fraction of the sources we have consulted are included. The main reason for it is that the Commission of Inquiry is mindful that criminal proceedings are pending against several individuals. Disclosing too much of the available evidence in public may impede a successful prosecution. Hence the Commission of Inquiry has consciously not made any cross references in the report to the source of the evidence. However, we are comforted by the fact that all the evidence led before the Commission of Inquiry is provided to the Hon. Attorney General for use in any criminal proceedings as provided by law.

The Report has been prepared in a narrative form for easy reading and understanding of the issues.

1588 statements were recorded by the investigating team. After considering the evidence in the statements, the Commission examined 457 witnesses. Their evidence is recorded on over 30,102 pages of proceedings. A total of 2377 documents including books 206 audio and video recordings were produced as evidence. This evidence, documents and audio recordings have been examined in detail to prepare this Report. The Report prepared by us is

contained in Volume 1 and consists of 32 Chapters. Our determinations and report of the specific issues set out in the Mandate are contained in Chapter 30. Our recommendations are set out in Chapter 31. A brief Executive Summary is contained in Chapter 32.

The Commission of Inquiry has functioned for nearly fifteen months and the Mandate required us to venture into areas which may have caused a measure of discomfort or concern to some people. The Commission of Inquiry appreciates the fact that throughout this period, no person, of any station, has attempted to influence or communicate with us with regard to our functions relating to this Commission of Inquiry. The Commissioners appreciate the strict and total independence with which we were able to function.

President Secretariat Colombo

Chapter 2

Extremism to Terrorism

The tragic events of 21st April 2019 in several parts of Sri Lanka are the outcome of activities that took place over a period of time. In order to fully comprehend its narrative as well as contributory factors, and the proposals that the COI makes at the end of the report to address issues of extremism, violent extremism and terrorism in Sri Lanka, it is important to have a basic understanding of some general terms. There are at least four terms that have to be understood although there is divergence as to the boundaries between them. They are radicalization, extremism, violent extremism, and terrorism.

In the Oxford Learner's Dictionary, extremism is defined to mean political, religious, etc. ideas or actions that are extreme and not normal, reasonable or acceptable to most people. Extremism is an early stage of the radicalization process where a person moves from being a moderate to an extremist.

Violent extremism is defined as an ideology that accepts the use of violence for the pursuit of goals that are generally social, racial, religious and/or political in nature while Nasser-Eddine, et al.[1] state that violent extremism is "a willingness to use or support the use of violence to further particular beliefs, including those of a political, social or ideological nature. This may include acts of terrorism."

Radicalization is generally defined as the process of adopting an extremist belief system, including the willingness to use, support, or facilitates violence, as a method to effect social change. According to Alex S. Wilner and Claire-Jehanne Dubouloz, "radicalization is a personal process in which individuals

[1] Nasser-Eddine, Garnham, Agostino, & Caluya, 2011, p.9 quoting National Counter-Terrorism Committee

adopt extreme political, social, and/or religious ideals and aspirations, and where the attainment of particular goals justifies the use of indiscriminate violence. It is both a mental and emotional process that prepares and motivates an individual to pursue violent behavior."[2]

According to Jason-Leigh Striegher[3], an individual who justifies the use of violence in pursuit of ideological goals, typically does this once they have moved through a process of radicalisation that leads to the adoption of violent extremism as an ideology; where terrorism is solely the act of violence carried out in pursuit of these goals. He goes on to point out that the adoption of violent extremism as an ideology is not guaranteed in this journey however, nor is the committing of an act of terror.

In Sri Lanka there is no statutory definition of the term "terrorism". The Prevention of Terrorism (Temporary) Provisions Act No. 48 of 1979 does not define terrorism. In 2006, the Financial Transactions Reporting Act No. 6 of 2006 went some way in providing guidance by defining the term "terrorist act" to mean an act constituting an offence in terms of any written law for the time being in force in Sri Lanka relating to terrorism.

Internationally, it is commonly understood that terrorism refers to acts of violence that target civilians in the pursuit of political or ideological aims.[4] In some instances, a more detailed definition has been adopted.

For example, "Terrorism" has been defined by the European Union's Framework Decision on Combating Terrorism of 2002 as "an intentional act

[2] Alex S. Wilner and Claire-Jehanne Dubouloz, "Three Precursors of Homegrown Radicalisation". In *Homegrown Terrorism and Transformative Learning: An Interdisciplinary Approach to Understanding Radicalization*, 38. 1st Ed. Vol. 22 Taylor & Francis, 2010

[3] *Violent-extremism: An examination of a definitional dilemma*, 2015. [Online] Available at <https://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1046&context=asi>. Accessed on 2nd January 2021.

[4] *Human Rights, Terrorism and Counter-terrorism*, Fact Sheet No. 32, p.5. Office of the United Nations High Commissioner for Human Rights.

which may seriously damage a country or an international organisation, committed with the aim of seriously intimidating a population, unduly compelling a Government or an international organisation to perform or abstain from performing any act, seriously destabilizing or destroying fundamental political, constitutional, economic or social structures by means of attacks upon a person's life, attacks upon the physical integrity of a person, kidnapping, hostage-taking, seizure of aircraft or ships, or the manufacture, possession or transport of weapons or explosives".

Section 1 of the UK Terrorism Act 2000, defines "Terrorism" as an action that endangers or causes serious violence to a person/people; causes serious damage to property; or seriously interferes with or disrupts an electronic system. The use or threat must be designed to influence the government or to intimidate the public and is made for the purpose of advancing political, religious or ideological cause (Section 1 of the Terrorism Act 2000).

There is a staircase to terrorism. The first step to terrorism is exclusivism. When a person becomes an exclusivist he becomes vulnerable to extremism. An exclusivist will only associate members of his ethnic or religious group. He will not want friends from other communities, other faith groups or other ethnic groups. When a person becomes isolated in this manner, he becomes more vulnerable towards those ideologies that make him extremist. Then he begins to have prejudices against others. Zaharan in his speeches emphasized that Muslims should have as friends only those who accept and follow Allah.

One way in which this exclusivism is created is having ethnic or religious pockets. Countries like Singapore identified the potential threat of exclusivism much earlier in its history. In Singapore the Government ensures that housing estates are not given exclusively to particular ethnic or religious groups. People from different communities such as Chinese, Muslim Malays, Indian Tamils and other communities like Eurasians live in an estate. There are no estates occupied only by one community.

Unfortunately, the threat from exclusivism was not comprehended by the authorities in Sri Lanka. The signs of exclusivism in the Kattankuddy area were visible for a long period over time. Zaharan and his family members flourished with their brand of Islamic extremism in Kattankuddy, which is just 4 km south of Batticaloa. Although Singapore identified the dangers of exclusivism at a very early stage of its history and took remedial measures, regrettably successive Sri Lankan governments failed to act early despite mainstream media, both local and foreign, highlighting this issue from as early as 2007.

Kattankuddy, 4 km south of Eastern Sri Lankan town of Batticaloa, is unique. It is the only all-Muslim town in the island. Non-Muslims cannot (and will not) reside, buy property or run businesses there. With 65 mosques, this heavily built up cramped town of 50,000 people spread over just 1 sq. km., boasts of having the largest number of mosques per square kilometer outside the Muslim world. The first thing one would notice on entering Kattankuddy is that, in contrast to other towns in Eastern Sri Lanka, there are hardly any women on the streets. This is in sharp contrast to Batticaloa, just 10 minutes away, where young girls are not only out in large numbers but go about in bicycles, or zip around in small scooters. [5]

[5] Balachandran P.K., 2007, Hindustan Times, Islamic Fundamentalism grips Sri Lankan town, 23 April 2007

The issue was again given coverage in the mainstream media on 16th of August 2009, in an article titled; "Unholy tension in Lanka's Muslim East" published in the Sunday Times. It was written by Chris Kamalendran and Asif Fuard. The writers went on to state that the differences between the traditional Sufi and thowheed groups in Kattankuddy are not ideological alone and that there have been several incidents of resort to violence, threats or intimidation which has alarmed the security authorities and Muslim community leaders alike and that intelligentsia do not want to speak due to fear of reprisals or embarrassment.

The article goes on to trace the arming and training of Muslim villagers by successive governments in the wake of the LTTE attack on the Kattankuddy mosque on 3rd August 1990 killing 103 Muslims. It chronicles the violent incidents in Kattankuddy in December 2006 when thowheed followers attacked and destroyed more than 117 Sufi houses and establishments. The thowheed members exhumed the body of the spiritual leader of the Sufi's Tharikathul Mufliheen from his grave in a mosque.

Another violent incident which took place around 2007 is also referred to where thowheed groups had destroyed a library and meditation centre at Deen Road, Kattankuddy. Around twenty houses of Sufi followers were destroyed.

There had been threats leveled against Sufi clerics who had critiqued the thowheed groups. On 31st July 2009, thowheed supporters allegedly abducted Moulavi Mohammad Rizvi who was then beaten up and questioned about his criticism of thowheed groups.

The main thrust of the radicalization process employed by Zaharan was a well-constructed narrative. A narrative is essentially a story that links elements and

sequences together to convey specific meanings for interpreting the world.[6] It is a system of stories that share themes, forms and archetypes.[7] A large number of extant studies analyse the narratives of violent extremists.[8]

Zaharan's narrative had five important components. Firstly, it spoke of the Caliphate. The term Caliphate (*khilāfah* in Arabic) is an Islamic State headed by a Caliph (*khalīfah* in Arabic) who is a person considered a politico-religious successor to Prophet Muhammad and a leader of the entire Muslim world (ummah).

There have been several Caliphates in the history of the world with the first being the Rāshidun Caliphate (632–661 CE) headed by Abu Bakr. It ended in 661 CE with the formation of the second Caliphate, the Umayyad Caliphate, by Banu Umayya which existed until 750 CE. The third Caliphate, the Abbāsid Caliphate, was ruled by the Abbāsids and existed until 1258. Several other Caliphates existed until 1924, the last being the Ottoman Caliphate from 1517 to 1924. On 3 March 1924, the first President of the Turkish Republic, Mustafa Kemal Atatürk, constitutionally abolished the institution of the caliphate leading to the establishment of Westphalian model of territorial states across the Middle East.

[6] Molly Patterson and Kristen Renwick Monroe, *"Narrative in Political Science,"* Annual Review of Political Science 1, no. 1 (1998): 315–31; Francesca Polletta, *"Contending Stories: Narrative in Social Movements."* Qualitative Sociology 21, no. 4 (1998), pp. 419-446.

[7] Steven R. Corman, "Understanding the Role of Narrative in Extremist Strategic Communication", in Laurie Fenstermacher and Todd Leventhal (Eds.), Countering Violent Extremism: Scientific Methods and Strategies (Washington, DC: NSI Inc., September 2011), p. 36.

[8] Nathan C. Funk and Abdul Aziz Said, *"Islam and the West: narratives of conflict and conflict transformation,"* International Journal of Peace Studies 9, no. 1 (2004), pp. 1-28; Yasmin Ibrahim, *"9/11 as a new temporal phase for Islam: the narrative and temporal framing of Islam in crisis,"* Contemporary Islam, 1 no.1 (2007), 37–51; Rane Halim, *"Narratives and counter-narratives of Islamist extremism,"* In: Anne Aly, Stuart Macdonald, Lee Jarvis and Thomas Chen, eds. *Violent Extremism* Online: New Perspectives on Terrorism and the Internet, (London: Routledge, 2016), pp. 167–186.

Interestingly, it is not only Zaharan who was rekindling the memories of the Caliphate. On 10th August 2017 a tamil film titled "Kalifa Umar"was screened at a place in Dematagoda which organized by two members of WAMY. It is a film based on the life story of Umar Ibn Al Khattab, the ruler of the second Islamic Caliphate between 634 CE and 644 CE.

Secondly, Zaharan spoke of jihad and references to it in Islamic religious scriptures and emphasized that it must be understood to mean violent jihad. He emphasized that only if one performs jihad can one go to paradise and called upon Muslims to die as martyrs.

Thirdly, Zaharan referred to atrocities committed around the world on Muslims and stated that they must be avenged. In particular, he referred to events in Burma and the attacks on IS forces in Syria and Iraq.

Fourthly, Zaharan referred to events in Sri Lanka where Muslims were targeted and in particular to the activities of Rev. Galagodaaththe Gnanasara thero. For example on 20th November 2016, Zaharan conducted a sermon about the activities of BBS General Secretary, Rev. Galagodaaththe Gnanasara thero and went on to state that if his acts was committed in an Islamic State, the punishment would have been beheading, hanging, stoning or exile.

In this context, it is evident that the emergence of extremist groups within the majority community in turn causes further tensions amongst other communities, which leads to a vicious cycle of greater fragmentation of the Sri Lankan identity. More importantly, such actions by majority extremist groups nourish the narrative of IS sympathetic and other Islamic extremist groups. In the final message recorded by Zaharan before the attack, such actions on the

part of Rev. Galagodaaththe Gnanasara thero as well as other extremist groups are given as reasons for the Easter attack.

Fifthly, Zaharan sought to make the Muslim community lose faith in the democratic governance structure of the country. Towards this end, he attacked the Parliamentary system by claiming that it was against Islam as only Allah can make laws to be obeyed by Muslims. He also attacked the judicial system by claiming that Muslim judges and lawyers are acting contrary to Islam by being members of the system of administration of justice in the country.

According to New York Police Department Research, the radicalization process an individual in the West undergoes as part of transforming to an Islamic extremist and then to terrorist consists of four phases[9] namely Pre-radicalization, Search for self-identity, Indoctrination and Jihad (conducting a violent act).

Although there are different models of the radicalization process, this model and the methodology adopted by Zaharan to radicalize his followers have several facts in common which merits some elaboration.

The pre-radicalization stage reflects the world of the individual including his attitude towards religion and Islamic faith. In identifying possible recruits, the first thing checked by Zaharan was to see whether the person performs his prayers five times a day. Towards this end, he sent his followers early in the morning to the mosque to identify persons who came to perform his prayers.

The next phase is characterized by a search for personal identity. This can include personal events as well as worldly events. There are two examples in

[9] Rohan Gunaratna and Aviv Oreg, *The Global Jihad Movement*, p. 388-407 (Rowman & Littlefield). 2015

Zaharan's methodology. He identified a Muslim youth who was disabled due to the Beruwela incident and bought him a trishaw. The youth became an ardent supporter of Zaharan's group.

In the indoctrination phrase, there is a sharp growth in the religious belief and a total acceptance of the Wahhabi ideology. Zaharan kept referring to the notion of kafir (non-Muslim) and the alleged directive to kill them in the religious texts in order to establish an Islamic State. During this phase the person begins to move only within the group circle. Zaharan constantly stated that according to religious texts Muslims should not have non-Muslims as friends.

The fourth and final phase is where the individual as part of the group makes a decision to fulfill his "Islamic "obligation by taking part in "jihad". The study states that after decisions have been made regarding the location and strategy of the attack, the group begins its operational planning and preparation. This stage is said to be a relatively short and includes target selection, operational reconnaissance of the selected target, renting of safe houses, operational training, making explosive charges and executing the attack.

In the Easter attack, some of the actions were taken much earlier to the attack for example, when Rilwan was injured on 27th August 2018 while experimenting with explosives although the bombs used in the attacks appear to have been assembled on 20th April 2019. The safe houses have been rented later while the reconnaissance of the targeted hotels appears to have been made on 17th April 2019.

While exclusivism, extremism and terrorism affect the stability and security of nations, terrorism presents a tier-one national security threat to most

governments and societies. As such, law enforcement authorities entrusted with maintaining law and order should act both preventively and remedially.[10]

The evidence before the COI reflects that during the critical build-up phase from 2016 to 2019, the Sri Lankan authorities failed to take adequate and effective steps to meet the threat from Islamic extremism. This is examined in greater detail in Chapters 12, 13 and 24.

Having examined the events leading to the Easter attack, one of the recommendations of the COI is to implement an efficacious rehabilitation process to de-radicalize religious extremists since the enhancement of security and other measures aimed at preventing radicalization is not sufficient by itself to counter the threat posed by Islam and other religious radicals.

In doing so, a clear understanding must be had of the differences in the processes and concepts. Rehabilitation is a process aimed at de-radicalization. Disengagement may be part of the de-radicalization process.

De-radicalization is the process whereby the individual's belief system is changed resulting in the rejection of the extremist ideology and embracing mainstream values.

Disengagement is where a change of behavior of a person is sought to be achieved without changing his beliefs. For example a person who was associated with a radical organization may sever all his links with the organization but continue to hold his beliefs which linked him to it.

[10] Prof. Rohan Gunaratna, *Islam is under threat*, Sunday Observer, 3rd January 2021.

There are certain reservations that de-radicalization is not possible where it involves religious belief. However, it is important that a program of rehabilitation be implemented immediately aimed at de-radicalization of all forms of religious extremism in Sri Lanka. It is important that the program goes beyond disengagement and seeks to achieve de-radicalization.

In formulating a program of rehabilitation aimed at de-radicalization and disengagement of religious extremists, it is useful to consider the experiences of other countries in dealing with Islamic extremism.

The COI studied several programs in the Middles East in countries such as Yemen, Saudi Arabia, Iraq and Libya, in South East Asia in countries such as Singapore, Malaysia, Indonesia and Thailand and in Europe in countries such as United Kingdom, Netherland and Denmark.

However, we are mindful that one-size does not fit all and that the local conditions giving rise to religious extremism will have to be considered as an important element in structuring the rehabilitation program. We are of the view that the program implemented in Singapore with some modifications to suit local conditions is best suited to address religious extremism in Sri Lanka.

Singapore's program had several different but connected components consisting of psychological rehabilitation, religious rehabilitation, social rehabilitation and community involvement and family support which in our view is an important part as it is long lasting and sustainable. We also recommend that educational rehabilitation, vocational rehabilitation and recreational rehabilitation also be added as components.

We however wish to emphasize that parallel to a rehabilitation process, there must be a clear and unequivocal message given to society that religious

extremism and terrorism are grave offences and punishable by law. Therefore, the most criminally culpable persons must be brought before courts of law and prosecuted. These convicted offenders must also be part of the rehabilitation program.

The Government must also show that it is fully committed to the rehabilitation process as the program will not be successful unless the community truly believes that the Government is desirous of rehabilitating religious extremists.

Chapter 3

Muslim Community in Sri Lanka

History

The ancestors of the present Muslims in Sri Lanka can be identified as having arrived in the country during two different periods. The earliest is the 7th century when the Arab traders arrived due to the strategic location of the country between Africa, India and China which made it a very busy and attractive centre for commercial activities. The second waves of Muslims came mainly from Pakistan and South India during the 19th and 20th centuries and were descendants of earlier Arab traders who had settled in South Indian ports and married local women. The descendants of these Muslims are generally called Sri Lankan Moors.

During the 18th and 19th centuries, the Dutch and the British brought down Javanese and Malaysian Muslims whose descendants are generally called Sri Lankan Malays. They differed from the Sri Lankan Moors in their physical appearance. They also spoke a language which was a mixture of Malay and local dialects.

According to Lorna Dewaraja, there was racial amity between the Sinhalese and the Muslims from the ancient times of the Sinhala Kings right up to the Kandyan kingdom.[11] When the Portuguese first appeared off the shores of Sri Lanka, the Muslims warned the King, Sangha (Buddhist clergy), nobles and the people of the potential threat to the country's sovereignty. When the Portuguese tried to gain a foothold in Colombo, the Muslims provided

[11] Dewaraja L., 1994. *The Muslims of Sri Lanka, One thousand years of Ethnic Harmony 900-1915*, Colombo: The Islamic Foundation, p.4. Exhibit C-839

firearms, fought side by side with the Sinhalese and even used their influence with South Indian powers to get military assistance to Sinhalese rulers. Through the intervention of the Muslims, the Zamorin of Calicut sent three distinguished Moors of Cochin with forces to help King Mayadunne (1521-1581).[12] A few centuries later, many Muslim officers of the three armed forces, Police and the intelligence outfits fought shoulder to shoulder with their fellow officers of different ethnic and religious denominations to defeat the LTTE during the war from 1983 to 2009.

Similarly, history records of instances where the Sinhalese gave protection and support to the Muslim community. When the Portuguese expelled the Muslims from the Portuguese territory, they moved to the Kandyan Kingdom. The Muslims were received favourably by the Kandyan Kingdom. They were integrated into Kandyan society primarily by giving them the duties that related to the King's administration. Robert Knox says that charitable Sinhala people gifted land to Muslims to live. Muslims adopted the outward appearance and dress and manners of the Sinhalese. In Galagedera there are yet two villages occupied only by Muslims, surrounded by Sinhala villages. These two villages had masjids and these masjids were built on land donated by the King. Present Katupalliya and Meera Makkam Masjid in Kandy were built on land gifted by the King. The architecture of the Katupalliya is Kandyan. Ridi Vihare in Kurunegala gave part of its land for a Masjid and allocated a portion of land for the maintenance of a Muslim priest.[13]

These are two examples of the harmonious relationship that developed between the Sinhalese and Muslim communities during the ancient times of the Sinhala kings. As Lorna Dewaraja states, "In the history of Sri Lanka few are

[12] Ibid. p.59
[13] Ibid. pp. 110-111

aware of the harmonious relationship which has developed between Sinhalese its indigenous inhabitants and the Muslims who were initially foreigners, and that have lived together peacefully for a thousand years. Perhaps because it was such a peaceful relationship, it was passed unnoticed by historians".[14]

However with the advent of the British to Sri Lanka and its "divide and rule policy", the Muslims became a potent weapon in their hands and were used to undermine the power and influence of the Kandyan Kingdom which damaged the cordial relationship which existed between the Sinhala Muslim communities.[15] An example is the support the Muslims displayed to the British during the rebellion of 1817-1818.

The first major dispute between the Sinhalese and the Muslim communities arose in 1915 with the riots in Kandy. The British saw the riots as a conspiracy against its rule and took harsh measures to suppress the riot by detaining a large number of Sinhala leaders.[16] On the other hand, this brought about hostility towards the Muslims on the part of the national movement while the Muslims felt that there was a need for them to align with the British for the protection of their rights.[17]

According to the Census of 2012, the total population of Sri Lanka is 20,359,439. Almost 70 percent of Sri Lankan population is Buddhist followed by Hindus (12.6%), Islam (9.7%), Roman Catholic (6.2%) and other religions (1.4%).[18] The Muslim community in Sri Lanka consists mainly of Sunnis and

[14] Ibid. p. 1
[15] Ibid. p. 136
[16] Ibid. p. 149
[17] Dr. M.A.M. Shukry, 2013, *Muslims in Sri Lanka*
[18] Available at <http://www.statistics.gov.lk/pophousat/cph2011/pages/activities/Reports/SriLanka.pdf> Accessed on 26th December 2020

Shias. Around 98% of the Muslim community in Sri Lanka is Sunni while around 1.5% is Shia and 0.5% is Quadian.

The differences between the two main groups arose when they chose sides following the death of Prophet Muhammad in AD 632. Sunnis believed that Muhammed's successor should be Abu Bakr and Omar, and the Shias believed that his successor should be Ali. There are differences in religious practice, traditions, and customs, often related to jurisprudence between the Sunni and Shia groups. Although all Muslim groups consider the Quran to be divine, Sunni and Shia have different opinions on hadith.

Different Groups of Sunnis

The Sunnis in Sri Lanka are divided into several missionary groups. However it appears that not all Sunnis in Sri Lanka belong to any one of the groups.

1. Tablighi Jamaat

The group was established in 1926 by Muhammad Ilyas al-Kandhlawi in Mewat region of British India. It is estimated to have between 350 million to 400 million adherents worldwide, with the majority living in South Asia, and a presence in a large number of countries.

The movement aims for the spiritual reformation of Islam by working at the grassroots level. The teachings of Tablighi Jamaat are expressed in "Six Principles" *Kalimah (Declaration of faith), Salah (Prayer), Ilm-o-zikr (Knowledge), Ikraam-e-Muslim (Respect of Muslim), Ikhlas-e-Niyyat (Sincerity of intention), Dawat-o-Tableegh (Proselytizaton)*).[19] The founders of this movement are followers of Wahhabism that urges Muslims to return to a pure

[19] *Howenstein, Nicholas (12 October 2006). "Islamic Networks: The case of the Tablighi Jamaat". United States Institute of Peace.*

form of Sunni Islam and be religiously observed especially with respect to dress, personal behavior and rituals.

Opinion is divided as to whether Tablighi Jamaat has links to Islamic terrorism. Tablighi Jamaat leaders have denied any links with terrorism.[20]

The U.S. Government has closely monitored Tablighi Jamaat since September 2001. According to US officials, though the Tablighis do not have a direct link with terrorism, the teachings and beliefs of Tablighi Jamaat have been a cornerstone for joining in radical Muslim groups.[21] One of the terrorist Syed Rizwan Farook involved in the 2015 San Bernardino attack was a student of the teachings of Tablighi Jamaat.[22]

According to the American Foreign Policy Council (AFPC), the Tablighi Jamaat teaches that *jihad* is "primarily as personal purification rather than as holy warfare". Because of its disavowal of violent jihad, the Tablighi activities have been banned in Saudi Arabia and some Islamist groups have accused the Tabligh of weakening support for jihad amongst Muslims. On the other hand, AFPC concludes, the group bears similarities with Islamist groups in that it adheres to strict Islamic norms and seeks to spread Islam to the whole world. [23]

According to Pakistani security analysts and Indian investigators, the founders of terrorist group Harkat-ul-Mujahideen were members of the Tablighi Jamaat.

[20] Ibid.

[21] Nafees Takar and Noor Zahid. January 15, 2016 VOA. Are Conservative Muslim Tablighi Jammat Pacifists or Extremists? [Online} Available at https://www.voanews.com/east-asia-pacific/are-conservative-muslim-tablighi-jamaat-pacifists-or-extremists Accessed on 29th December 2020.

[22] Ibid.

[23] *"Tablighi Jama'at". The World Almanac of Islamism. American Foreign Policy Council. [Online]. Available at <https://web.archive.org/web/20160323011829/http://almanac.afpc.org/tablighi-jamaat> Accessed on 29th December 2020.*

The intelligence estimates that over 6,000 Tablighis were trained in Harkat-ul-Mujahideen terrorist camps in Pakistan.[24]

In February 2020 a counter-terrorism operation in Moscow led to the dismantling of a terrorist cell directly affiliated to Tablighi Jamaat. The Russian Federal Secret Service arrested seven people, both Russian and Central Asians, all actual members of the Tablighi. The cell, according to Russian intelligence, was engaged in various activities, including the search for new followers through a strong campaign of proselytism, the dissemination of Tablighi Jamaat propaganda material in the Muscovite Islamic community, the management of training camps for new recruits, functional to their radicalization. Moscow, unlike the Western countries, has banned and outlawed the Tablighi Jamaat activities in the country since 2009, when the organisation was included, on recommendation of the Russian Supreme Court, into the list of terrorist groups monitored by the Kremlin.[25]

Tablighi Jamaat members who have been charged with terrorism include: Zacarias Moussaoui (charged in the United States in the 11 September attacks), Hervé Djamel Loiseau (French citizen found in Afghanistan), and Djamel Beghal (Algerian-born French citizen and Al Qaeda member who was convicted of plotting to blow up the U.S. Embassy in Paris), Syed Rizwan Farook. In a foiled January 2008 bombing plot in Barcelona, Spain, "some media reports" stated that a Muslim leader in the city stated that the fourteen suspects arrested by police in a series of raids (where bomb-making materials were seized) were members of the Tablighi Jamaat. Other terrorist plots and attacks on civilians

[24] IANS. April 1, 2020, Tablighi Jamaat shares links with terror outfits. [Online] Available at https://timesofindia.indiatimes.com/india/tablighi-jamaat-shares-links-with-terror-outfits/articleshow/74927011.cms?from=mdr Accessed on: 29th December 2020

[25] ANI. April 2, 2020. [Online] Available at https://www.business-standard.com/article/news-ani/tablighi-jamaat-an-antechamber-of-terrorism-in-europe-120040201638_1.html. Accessed on 29th December 2020.

that members of Tablighi Jamaat have been connected with include the Portland Seven, the Lackawanna Six, the 2006 transatlantic aircraft plot, the 7/7 London bombings, the 2007 London car bombs, and 2007 Glasgow International Airport attack.[26]

Tablighi Jamaat has been banned in some Central Asian countries such as Uzbekistan, Tajikistan and Kazakhstan, whose governments see its puritanical preaching's as extremist.[27]

Tablighi Jamaat, which has been operating in Sri Lanka since the 1950s, has been exerting its extremist religious influences to enhance *dawah* (encouraging non-Muslims to convert) in Sri Lanka.[28] It focuses its activities on the moral and spiritual uplift of individuals asking them to fulfill their religious obligations irrespective of whether there is an Islamic State or not. Its main Markaz is located in Grandpass, Colombo 14 while a sub-office is situated at Ottamavadi in the Batticaloa district within the Eastern Province. It is active in spreading their religious beliefs by conducting house to house visits in Batticaloa, Ottamavadi, Valachchenai, Birandarachenai, Semmanodai, Kavanthumani, Niyawattuwan and Eravur areas in the eastern province of Sri Lanka.

The Sri Lankan scholars of the Tablighi Jamaat group recommends to its followers to keep the book *Kitab al-Tawhid* by Muhammad Ibn Abd al-Wahhab, considered to be extremist in content, in their homes. In this book Wahab

[26] Fred Burton and Scott Stewart, January 23, 2008. Stratfor Global Intelligence. [Online]. Available at < https://web.archive.org/web/20140905014000/http://www.stratfor.com/weekly/tablighi_jamaat_indirect_line_terrorism>. Accessed on: 29th December 2020.

[27] Stanley Johny April 2, 2020. The Hindu, Explained Who are the Tablighi Jamaat? [Online] <https://www.thehindu.com/news/national/explained-who-are-the-tablighi-jamaat-the-organisation-at-the-epicentre-of-coronavirus-outbreak-in-india/article31238915.ece >Accessed on 29th December 2019

[28] "Sri Lanka: Colombo Orders Islamist Clerics to Leave," Future Directions International, January 28, 2016, www.futuredirections.org.au/publication/sri-lanka-colombo-orders-islamist-clerics-to-leave/.

believed that non-believers and persons who do not follow Islam properly such as grave worshippers should be killed.

Of the suicide bombers who took part in the Easter attack, Azad was a member of Tablighi Jamaat.

2. Jamath ul-Muslimeen

This group is active in Pakistan. By about 2015 there were about 3000 to 5000 members of this group in Sri Lanka and most of its funding is from Pakistan. A few of its members reportedly possess firearms. The coordinating centre is at Etthala, Puttalam. Pakistan nationals travel to the country to assist the group in the awareness campaigns. It is reportedly one of the extremist organizations in the country.

3. Ehewanu (Ikhwan) Muslimeen

This group is aligned with the ideology of the Society of the Muslim Brothers (*Jamāʿat al-Ikhwān al-Muslimīn*), also known as the Muslim Brotherhood (*al-Ikhwān al-Muslimūn*). The Muslim Brotherhood was founded in Egypt in 1928 by Islamic scholar and schoolteacher Hassan al-Banna, who is identified as an extremist preacher. The movement's self-stated aim is the establishment of a state ruled by Sharia law–its most famous slogan worldwide being: "Islam is the solution". Today, the primary state backers of the Muslim Brotherhood are Qatar and Turkey. As of 2015, it is considered a terrorist organization by the governments of Bahrain, Egypt, Russia, Syria, Saudi Arabia and the United Arab Emirates.

The Ehewanu Muslimeen group has direct links with jihad activists and its members willingly help countries that are fighting for the establishment of

Muslim extremism. A paper titled *Meel Parwei* is circulated by the group in addition to the sale of books and articles. They maintain branches all over the country through front organizations.

4. Thariqa (Ishthihad Ahlul Sunnathul Wal Jamath)

This is a moderate group, also called Sufi, and believes that one of their leaders is god. It has a large presence in the South Asian region particularly in Bangladesh and India where the main mosque is located in Nagar Patnam, South India. Some of the oldest Muslim cultures in Asia, including Sri Lanka, are considered to be of this group. It has many sub-groups such as Qadiriya Thariqa, Alaviya Thariqa, Naksha Bandiya Thariqa, Risariya Thariqa and Saduliya Thariqa. The main centre of this group is at Beruwala mosque and has other mosques at Dawatagaha mosque in Colombo, Panadura, Negombo and Galle.

Sufism and the cult of the awliya in general has of late been severely condemned as an innovation against Islamic teachings and none have been so vociferously opposed to it as those Muslims subscribing to Salafi ideas, known in popular parlance as 'Tawhid people'. These folk, who are rather orthodox in their views follow a puritanical form of Islam inspired by the teachings of Ibn Taymiyyah and his neo-Hanabali followers such as Muhammad Ibn Abdul Wahhab, who held that worship must be directed to God and Him alone, and that anything that could be interpreted as worship of any other being, whether a saint, ruler or any other from, was a form of idolatry.[29] This group has had continuing differences with the thowheed group which is set out in more detail in Chapter 5.

[29] Asiff Hussein, *Sarandib: An Ethnological Study of the Muslims of Sri Lanka*, p. 618

5. Jamaat-E-Islami

Jamaat-E-Islami (community of the Muslims) is a religious revival movement established by Abul Ala Maududi on 26th August 1941 in British India. His political ideology represents the ideology of the Jamaat and is based on his two concepts; one, sovereignty belongs to God and purpose of every Muslim is to establish Gods rule on earth, and second, Islam is a complete and comprehensive way of life governing all aspects of life social, economic, political etc. Thus the main purpose of the Jamaat-E-Islami according to Maududi was to establish sovereignty of God on earth known by other terms also, like Islamic state or Darul Islam.[30] According to Maududi, "No doubt the Islamic State is a totalitarian state and comprises within its sphere all departments of life. But this totalitarianism and universality are based upon the universality of Divine Law which an Islamic ruler has to observe and enforce."[31]

This group is mostly active in India, Pakistan, Afghanistan, Egypt, Malaysia and Turkey. The Indian branch of the organization is known as Jamaat-E-Islami Hind which was banned twice by the Government of India. The first was a temporary ban during the emergency of 1975-1977 which was revoked after the lifting of emergency. The second was in 1992 under the Unlawful Activities (Prevention) Act 1967 which was challenged before the Supreme Court.

In *Jamaat-E-Islami Hind v. Union of India* [1995 SCC (1) 428] the Indian Supreme Court quashed the order dated 11.04.1994 passed under section 4 of the Unlawful Activities (Prevention) Act 1967 confirming the declaration by the Central Government in the notification dated 10.12.1992 issued under sub-

[30] Exhibit C–328. Jamaat-I-Islami: Ideology, Rameez Ahmad Lone, International Journal of Research in Social Sciences, Vol. 8 Issue 5, May 2018, page 792
[31] Ibid. page 796

section (1) of Section 3 of the Act that Jamaat-E-Islami Hind is an "unlawful association" as defined in the Act. The judgment was based on procedural impropriety and the Supreme Court specifically held that its conclusion shall not be taken to debar action under the said Act against Jamaat-E-Islami Hind thereafter if the necessary material is available.

The SLJI was founded in 1954 by an Indian businessman named Abdul Cader Jailani Shahib at No. 77 Dematagoda Road, Colombo 9. Its worldviews are largely influenced by the thoughts of Hassan al-Banna, who founded the Muslim Brotherhood in Egypt in 1928 and the messages of Sayyid Qutb, who called Muslim societies to challenge the non-Islamic political system and ideas and build an Islamic State through the channels of (militant) jihad.[32] Hassan al-Banna viewed Islam to be a comprehensive system of life and the Holy Quran as the only acceptable constitution. He advocated islamization of the State, its economy and society.

Sayyid Qutb himself was greatly influenced by Ibn al-Qayyim and Hassan al-Banna and was convicted in 1966 of plotting the assassination of Egyptian President Gamal Abdel Nasser and was executed by hanging. Ibn al-Qayyim is known as the foremost disciple and student of Ibn Taymiyyah whose views have had a profound impact on ultra conservative ideologies such as Wahabism, Salafism and Jihadism. Hajjul Akbar is the longest standing leader of SLJI having held office from 1994 to 2018.

The Islahiya Arabic College in Madampe is maintained by the SLJI and the Hizbul Islam Trust established by Act No. 7 of 1992 is part of this organization.

[32] *Sri Lanka Jamaat-e-Islami*, Dr. A.R.M. Imtiyaz and Ms. Minna Thaheer in Islam, Judaism, and Zoroastrianism, pp. 658-661, (2018)

This is a jihadist movement that is trying to radicalize Muslims. Majority of its members are operating in Jaffna, Kinniya, Muttur, Kakamunai, Kachchakudithivu, Kurugngnankerni, Nandakuda, Willaweli, Mawanella and Puttalam. There is evidence that this group possesses a considerable number of firearms and provided training for approximately 150 youth mainly selected from Muslim internally displaced camps. In its operations in Sri Lanka, the more intellectual approach of the SLJI has generated a greater appeal among the more educated middle class Muslims.

6. Thowheed (Islamic Monotheism)

Thowheed Jamaat is a religious movement claiming to preach "True Islam" to both Muslims and non-Muslims. The foundation of their ideology is the Thowheed concept of Islamic Monotheism.

According to Islam, Tauhīd means "unification or oneness of God". At times it is referred to as *Tawheed*, *Tauhīd*, *Touheed*, *Tauheed*, *Tevhid* and *thowheed*. In *Translation of the meanings of THE NOBLE QUR'ÁN IN THE ENGLISH LANGUAGE*[33] it is said that Tauhīd *(Islamic Monotheism)* is to believe in 1. Allah, 2. His Angels, 3. His Messengers, 4. His revealed Books, 5. Day of Resurrection, 6. And Al-Qadar (Divine Preordainment i.e. whatever Allah ordained must come to pass), and to act on the five principles of Islam, i.e., 1. To testify that La illaha illallah wa anna Muhammad-ur Rasul Allah (None has the right to be worshipped but Allah and that Muhammad is the Messenger of Allah), 2. To offer the (five congregational) prayers (Iqamat as-Salat), 3. To pay zakat, 4. To

[33] Dr. Muhammad Taqi-ud-Din al-Hilali and Dr. Muhammad Muhsin Khan, King Fahd Glorius Qur'an Printing Complex, p. 894

perform Hajj (i.e. pilgrimage to Makkah), 5. To observe fast during the month of Ramadan. To believe in Allah means declaring Allah to be the only God in heavens and the earth and all that exists.

Globally it is active in countries such as Pakistan, India, Afghanistan and Sri Lanka.

This group and its splinter groups have had several confrontations with Sufi followers over time. The confrontation between NTJ led by Zaharan and the Ishthihad Ahlul Sunnathul Wal Jamath on 10th March 2017 at Aliyar junction Kattankuddy is one example. The ultimate aim of this group is reportedly to establish an Islamic State in Sri Lanka.

This group is attempting to establish new mosques and Muslim organizations to attract donations from the international Muslim community and radicalize other Muslims.

Due to certain differences in ideology, this group has several splinter groups operating in the country. They are:

(i) SLTJ
(ii) NTJ
(iii) CTJ
(iv) UTJ
(v) ACTJ
(vi) JASM
(vii) WAMY
(viii) Jamiyathu Sabha
(ix) Al Ithiya Athuradu Al Islamin
(x) Al Hithiyadu Ahuluth Thowheed

The position outlined above of the Muslim community in Sri Lanka and the different sects within the community forms part of the evidence before the COI obtained through oral and documentary evidence and includes expert testimony.

Chapter 4

Wahhabism

The PSC Report refers to Wahhabism as a conservative movement within Islam's Sunni branch and identifies that "Thowheed" (uniqueness and unity of God) is its primary doctrine.[34] However, the COI is of the view that this is a diluted explanation of Wahhabism. A more descriptive explanation of Wahhabism is required to understand the full ramifications of this ideology.

The word "wahhabi" is derived from the name of a Muslim scholar, Muhammad Ibn Abd al-Wahhab, who lived in the Arabian Peninsula during the eighteenth century (1703-1791). He said that Islam has been polluted due to the mingling of other ideas that came from other religions. Wahhabism is a puritanical form of Sunni Islam which is mainly practiced in Saudi Arabia and to a lesser extent in Qatar.

Prior to Muhammad Ibn Abd al-Wahhab, Ahmad Ibn Taymiyyah and his student Ibn Qayyim Al-Jawziyyah spoke and wrote in favour of this doctrine known as Tawhid Al-Uluhiyya. It was however Muhammad Ibn Abd al-Wahhab who sought to impose this doctrine by more forceful means than that resorted to by earlier scholars like Ibn Taymiyyah. Basically what Ibn Abdul Wahab sought was to return to the original purity of the faith, which had out of the ignorance of its numerous followers of his time degenerated, he believed, to a level bordering on idolatry. Not contended with merely preaching against the innovations and superstitions that had taken hold of the people of the Arabian Peninsula of his time, he even resorted to force of arms and although he was unable to purge Islamdom of the innovations he had sought to stamp out, his

[34] Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019, Parliamentary Series No. 183, p. 122-3.

President Secretary's Copy

ideas gained widespread credence not only in Arabia but also in India within a century of his death.[35]

In Arabic, the word jihad translates to mean "struggle". Persons engaged in jihad are referred to as mujahideens. There are two meanings of jihad, one is spiritual and the other militant. The greater jihad is the inner struggle by a believer to fulfill his religious duties and is a non-violent struggle. The other meaning attributed to jihad is the physical act against the enemies of Islam. This can take the form of a violent or non-violent struggle. According to several Moulavis who testified before the COI, Muhammad Ibn Abd al-Wahhab in *Kitab al-Tawhid* describes jihad as holy war, meaning a physical war, for the cause of Allah. It is pertinent that the book *Kitab al-Tawhid* was distributed by the IS in Iraq in 2016.

Today, the term "Wahhabism" is broadly applied outside of the Arab world to refer to a Sunni Islamic movement that seeks to purify Islam of any innovations or practices that deviate from the seventh-century teachings of the Prophet Muhammad and his companions. However, in the Arab world or in countries where there is a predominant Muslim population, this movement is called Salafism or Thowheed. Wahhabism opposes Islamic religious practices such as saint veneration, the celebration of the Prophet's birthday, fundamental Shiite traditions, and some practices associated with the teachings of Sufism.

The problem with Wahhabism is its *takfiri* ideology resulting from an exclusivist understanding of Islamic monotheism (*tawhid*), which arguably led to widespread bloodshed against those deemed to have fallen outside the scope of Islamic faith. In the history of Wahhabi expansionism in Arabia, which ensued from Muhammad ibn Abd al-Wahhab's political collaboration with a

[35] Asiff Hussein, *Sarandib: An Ethnological Study of the Muslims of Sri Lanka*, Footnote p. 618

tribal leader, Muhammad ibn Saud (1710-1765), violence was wantonly perpetrated against Muslims accused of committing *shirk* (idolatry) and *bid'ah* (blasphemous innovation). Research into Muhammad ibn Abd al-Wahhab's own writings, plus testimonies from his contemporaries among both friends and foes, confirms his sanctioning and even encourages militant *jihad* against Muslims deemed to have crossed the line of apostasy by way of polytheistic behaviour. In addition, the Wahhabi doctrine of *al-wala' wa al-bara'* (loyalty and disavowal) advocates total separation in all spheres of Muslim and non-Muslim lives, thus promoting a dichotomous worldview of two distinctive abodes i.e. of Islam and infidelity, being irreconcilably entangled in a state of perpetual war where violence is normal and civilian loss of lives legitimized as unavoidable collateral damage. As a consequence, Islam becomes essentialized as Islamism—a supremacist and ethnocentric dogma that instrumentalizes coercion and violence as its most potent weapon.[36]

The Final Report of the National Commission on Terrorist Attacks Upon the United States claims that in the 1980s, awash in sudden oil wealth, Saudi Arabia competed with Shia Iran to promote its Sunni fundamentalist interpretation of Islam, Wahhabism. The Saudi government, always conscious of its duties as the custodian of Islam's holiest places, joined with wealthy Arabs from the Kingdom and other states bordering the Persian Gulf in donating money to build mosques and religious schools that could preach and teach their interpretation of Islamic doctrine.

The Report goes on to state that "Islamist terrorism" finds inspiration in "a long tradition of extreme intolerance" that flows "through the founders of

[36] Ahmad Fauzi Abdul Hamid, May 18, 2016. *ISIS in Southeast Asia: Internalized Wahhabism is a Major Factor*. [Online]. Available at https://www.mei.edu/publications/isis-southeast-asia-internalized-Wahhabism-major-factor. Accessed on 2nd January 2021.

Wahhabism," the Muslim Brotherhood, and prominent Salafi thinkers. The report further details the education and activities of some 9/11 hijackers in the Al Qassim province of Saudi Arabia, which the report describes as "the very heart of the strict Wahhabi movement in Saudi Arabia." According to the Commission, some Saudi "Wahhabi-funded organizations," such as the now-defunct Al Haramain Islamic Foundation, "have been exploited by extremists to further their goal of violent jihad against non-Muslims." Due in part to these findings, the Commission recommended a frank discussion of the relationship between the United States and its "problematic ally," Saudi Arabia.

In July 2013, Wahhabism was identified by the European Parliament in Strasbourg as the main source of global terrorism. In February 2017 the Belgium Coordination Unit for Threat Analysis (OCAD/OCAM, which evaluates terrorist and extremist threats in and to Belgium) voiced concerns over the spread of Saudi-backed Wahhabism in Belgium and the rest of Europe, stating "An increasing number of mosques and Islamic centres in Belgium are controlled by Wahhabists".[37]

Preaching of Wahhabism is prohibited in Malaysia, Russia and Tajikistan. Egypt while prohibiting Wahhabism has ordered the removal of all books written by wahhabi and salafi scholars like Abdul Wahab, Ibn Taymiyyah, Ibn Baz, Gutheim, Ibn Uthaymeen and others. The government of Jordan has banned books of scholars of wahhabi ideology.

Even in Saudi Arabia, Wahhabism (thowheed) is closely and tightly regulated. All Friday sermons are approved by a central authority and the curricula of all madrasas are approved by religious and education authorities.

[37] The Brussels Times, February 8, 2017. *OCAM warns against advance of radical Islam in Belgium*. [Online]. Available at https://www.brusselstimes.com/news/belgium-all-news/41037/ocam-warns-against-advance-of-radical-islam-in-belgium/. Accessed on 28th December 2020.

The promotion of Wahhabism in Saudi Arabia and the world was done by the Sunni Muslims to counter the Iranian revolution in 1979 by the Shia Muslims. In an interview with the Washington Post, carried in the Gulf Times on 2nd April 2018, Saudi Crown Prince Mohammed bin Salman Al Saud is quoted as saying that Saudi Arabia has been spreading Wahhabism, at the request of its western allies. He went on to state that investments in mosques and madrasas overseas were rooted in the Cold War, when allies asked Saudi Arabia to use its resources to prevent inroads in Muslim countries by the Soviet Union.

However it appears that presently there is new thinking on the part of the Saudi rulers. Saudi Arabia under Crown Prince Mohammed bin Salman Al Saud has realized the danger of Wahhabism and reduced the power of the Committee for the Promotion of Virtue and Prevention of Vice (religious police) which enforced a strict religious code, excluded women from public life and cracked down on businesses for not closing for the five prayers, desecrated the shrines of saints, broke idols and forbid practice of other faiths.[38]

He is quoted as stating:

> "We [Saudis] were living a very normal life like the rest of the Gulf countries. Women were driving cars. There were movie theatres in Saudi Arabia. Women worked everywhere. We were just normal people developing like any other country until the events of 1979. We are returning to what we were before – a country of moderate Islam that is open to all religions and to the world".

There are several changes that are being made in Saudi governance structure and society in general reflecting a change of thinking. In December 2016, more moderate clerics were appointed to the Council of Senior Scholars, the highest

[38] Prof. Rohan Gunaratna, *Islam is under threat*, Sunday Observer, 3rd January 2021.

religious body in the country. After 35 years in 2017, music concerts were allowed and cinema halls re-opened for both genders.

The position outlined above of Wahhabism forms part of the evidence before the COI obtained through oral and documentary evidence and includes expert testimony.

Chapter 5

Wahhabism in Sri Lanka

Tawhid (sometimes referred to as Tawheed, Touheed, Tauheed or Tevhidis), is also the term used for wahhabism in Sri Lanka and South India. In Sri Lanka and South India, wahhabism spread as thowheed. The Sri Lankans who practice wahhabism call themselves Muwahhidun or Salafis. Wherever wahhabism spread, Muslims were radicalized and in many countries it has led to religious extremism, violent extremism and terrorism. This has been the case in Sri Lanka. It declares absolute monotheism—the unity and uniqueness of God as creator and sustainer of the universe. Wahhabis in Sri Lanka propagate its expansion through the Thawheed organization.[39]

Sri Lankan Tawhid groups are also part of a broader international network of Wahhabi and Salafi communities, with particular links to Saudi Arabia and other Gulf states.[40]

According to reports, in Sri Lanka, since the late 1980s there has been a strong growth in ultra-orthodox interpretations of Islam that have provoked conflicts with Muslims who traditionally profess Sufism. There are several emerging trends, with issues of identity and Muslim separatism also coinciding with the influx of some religious ideas from the Middle East, particularly Saudi Arabia, Pakistan and elsewhere.[41]

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[39] Mohamed Faslan and Nadine Vanniasinkam, *Fracturing Community Intra-group Relations among the Muslims of Sri Lanka*, ICES Research Paper (n.d.), 14, https://www.scribd.com/doc/302814544/Fracturing-Community-Intra-group-relations-among-the-Muslims-of-Sri-Lanka

[40] *Sri Lanka's Muslims: Caught in the Crossfire Crisis Group Asia Report N°134*, 29 May 2007, p. 24, [Online] Available at https://www.refworld.org/pdfid/465d2a942.pdf .Accessed on 12th January 2021

[41] Daya Hewapathirane, 2013. Lankaweb. *Antagonism among Muslims in Sri Lanka*. [Online]. Available at: http://www.lankaweb.com/news/items/2013/03/30/antagonism-among-muslims-in-sri-lanka/ [Accessed on 4th January 2021]

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An early attempt to spread wahhabism in Sri Lanka was made in 1947 by Darwesh Abdul Hameed Bakri who established the JASM in Paragahadeniya, Kurunegala. This organization operates a school at Paragahadeniya where they teach Arabic to around 400 students who are provided with accommodation. They are enrolled at the age of 12 and continue studies for 7 years. Interestingly, in the paper *Islam Miththiran*, published on 22nd November 1947, it is recorded that two wahhabi followers were arrested by the Polce due to breaking a Sufi shrine in Paragahadeniya, Kurunegala. Darwesh Abdul Hameed Bakri later went to Ninthavur and tried to propagate wahhabism which failed due to the fierce resistant by the Sufis.

In the wake of the fierce resistance put up by the Sufi community in Sri Lanka against the spread of wahhabism, they became the target of violent activity by the thowheed groups. Interestingly, they were even the target of the ACJU which is the apex religious body of Islamic theologians that provides religious and community leadership to the Sri Lankan Muslim Community. The ACJU was founded in 1924 and was later incorporated by Act No. 51 of 2000.

As early as 1979, the ACJU took certain steps against the Sufi orders. The ACJU at a meeting held on the 31st of March 1979 in Colombo, declared Rauf Moulavi, spiritual leader of a Sufi order, as *murthath*. In the fatwa, *murthath* is described as a renegade from his holy religion and it goes on to state that if a person has become *murthath*, he should be murdered according to Islamic law.

All Ceylon Thareekathul Mufliheen is an organization established by the Sufi Muslims in the 1980s in Kattankuddy. It was founded by Sheihul Mufliheen

M.S.M. Abdulla, known as "Rah". It maintained that each human being is free to choose a path of faith and that there should not be any compulsion to embrace the views of the organization. This was published in a book in tamil in 1980 by Rah titled Imanin Unmaiyai Nee Arivaya or "Do You Know the Truth of Iman?" iman referring to Islamic belief. The ACJU published a fatwa on 10th September 1989 declaring Rah and his followers as *murthath*. Rah filed a defamation suit against the ACJU in D.C. Colombo case no. 11342/MR and there was an appeal to the Court of Appeal in case no. CA 888/95. Later this fatwa was withdrawn by the ACJU in 1996.

Around 1990, a Center for Islamic Guidance was commenced by Mohamed Aliyar in Kattankuddy which started propagating wahhabism. After the Easter attack, Mohamed Aliyar was arrested by the police for his close links with Zaharan. Aliyar is a Saudi-educated scholar. From around 1990s, there were several incidents of violence targeting Sufi faithful.

In 1991 the President of the ACJU Moulana Moulavi Abdul Samath Aalin resigned from the post by writing a letter where he states that wahhabi scholars have taken over the ACJU and that he is too old to fight with them and is thus resigning. The COI was presented with a copy of this letter as evidence.

The violent activities of the wahhabist group in Sri Lanka emerged even in Mecca, Saudi Arabia. Yeheiya Moulavi Ashari is a Sufi cleric who openly spoke against the wahhabist activities in Sri Lanka. In 1991 he went on a pilgrimage to Mecca as part of a Sri Lankan group. There some members of the group

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attacked him with a knife leaving him with cut injuries for having spoken against wahhabism. Alavi Moulana, who later went on to become the Governor of the Western Province, was in Mecca at the same time and both of them went to the Police station to make a complaint. When the Police got to know his name they refused to record his statement as they had received complaints from Sri Lanka that he was speaking against wahhabism. His troubles did not end there. In 1995 he was shot at in Akkaraipattu. Around 2006 or 2007, he was abducted by a group of wahhabists and detained for a few days and threatened to stop preaching against them.

All Ceylon Thareekathul Mufliheen opened a Meditation Centre at Kattankudy in 1996. On 29th May 1996 Wahhabi supporters staged an arson attack on the building. Sheihul Mufliheen M.S.M. Abdullah (Rah), its leader and the members of the order were targets of shooting and grenade attacks, and other physical aggression, as well as threats.

On 29th May 1998, M.S.M. Farouk Qadhiree a vocal opponent of wahhabism was shot and killed allegedly by wahhabists. A public warning had been issued later that the murder was the punishment for those who act against wahhabism.

On 29th January 2003, the Oluvil declaration was proclaimed which claimed that the North –Eastern Muslims have an identity and a homeland and claims to be a separate nation (Razak and Mansoor, 2003). It declared the following as their aspirations to the local and international community:

1. The North – Eastern Muslims are a separate political community, nationality or nation. By nationality or nation they mean a group of

people who are bound together by a common political agenda and who possess a separate cultural identity.

2. The North –eastern region is the traditional homeland of the Muslims.
3. The North –eastern Muslims have the right of self – determination to decide their political destiny.
4. In any political solution to today's political crisis, the territory comprising the areas predominantly inhabited by Muslims must be respected and consolidated in an autonomous political unit.
5. The social, political, economic and cultural rights of their Muslims brethren who live outside the North – East should be reasonably ensured. It is their obligation to agitate and struggle to achieve their rights, (Razak and Mansoor,2003).

On October 31, 2004, around 12:30 p.m., 500 wahhabists organized under the title "Jihad" again set the Meditation Centre ablaze, destroying its library, along with homes and businesses owned by Sufis.[42] A complaint was entered at Police Headquarters in Colombo in 2004, and a subsequent protest was filed with the Sri Lanka Human Rights Commission (HRC) in 2005. The HRC found in favor of the Sufis, stating that their constitutional right to adhere to the belief of their will and choice had been violated, and submitting recommendations for redress to the Inspector General of Police.[43]

The huge minaret lying destroyed on the Kattankuddy seafront was not the result of a natural disaster but of an upsurge of violence by ultra-orthodox Muslims against a Sufi movement led by M. S. M. Abdullah (popularly known as Payilvan). The interior of the adjacent mosque has been vandalised, two graves

[42] Stephen Schwartz and Irfan Al-Alawi, *The Wahhabi invasion of Sri Lanka*, Colombo Telegraph, March 27, 2013. [Online]. Available at < https://www.colombotelegraph.com/index.php/the-wahhabi-invasion-of-sri-lanka/>, Accessed on 31st December 2020.
[43] Ibid.

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inside have been desecrated, and the walls are covered with graffiti: "Payilvan – Lazy Dog" is one of the less inflammatory.[44]

This extravagant mosque, with a minaret attached, was constructed as the headquarters of Payilvan's sect, the All Ceylon Thareekathul Mufliheen (ACTM). When he died in December 2006 and was buried there, Kattankudi was paralysed by several days of rioting and an indefinite hartal. Young men with guns appeared on the streets, houses belonging to Payilvan's supporters were badly damaged and another Sufi mosque was attacked with grenades. The minaret of the building was destroyed following a court decision that it violated planning restrictions. Payilvan supporters claim his body was dug up and burnt. Sufi supporters fled the town after receiving death threats. A local businessman arranged transfers for several staff after they claimed their lives were threatened by extremist groups. Some former Sufis who remained in the town said they were forced to renounce Sufi beliefs.[45]

This December 2006 incident was the most violent in several years of confrontation between Sufis and orthodox Muslims in the area. There were traditionally many Sufis in Kattankudi but the growth in ultra-orthodox Muslim groups has led to increasing trouble. In 1998 a local Sufi leader was killed, and there was frequent tension between Salafi groups and two major Sufi leaders, Abdur Rauf Maulavi and Payilvan. There was further violence in October 2004, when a Sufi mosque was destroyed, allegedly by Islamic extremists. Salafis protested against and sometimes disrupted Sufi practices, particularly kanduri feast celebrations in honour of saints. These disputes descended into renewed

[44] *Sri Lanka's Muslims: Caught in the Crossfire Crisis Group Asia Report N°134*, 29 May 2007, p. 24, [Online] Available at https://www.refworld.org/pdfid/465d2a942.pdf .Accessed on 12th January 2021
[45] Ibid.

violence in October 2006, after Salafi groups tried to stop traditional Sufi rituals.

The violence continued for some days resulting in the destruction of 117 houses belonging to Sufis. A police post and a police vehicle were damaged and three rioters died.[46]

Since then, however, abuses against the Sufis of Kattankudy have continued, with Wahhabi Thawheed faction in the forefront of violence. Official ulema and the village authorities attempted unsuccessfully to prevent celebration of a Sufi festival in 2008. That year, a Sri Lanka Supreme Court order, providing that 200 members of Thareekathul Mufliheen be allowed to return to their homes in Kattankudy and practice their beliefs in freedom, was obstructed by armed Jihad members. In response to the campaign against it, Thareekathul Mufliheen has appealed to the Sri Lanka authorities for an impartial inquiry into Wahhabi activities in the country; to disarm the Wahhabis; to provide for reconstruction of the headquarters of Thareekathul Mufliheen in Kattankudy; to enforce the revocation of the fatwa issued by the All Ceylon Jamiathul Ulama against Abdullah (Rah) and his disciples, as ordered by the Colombo District Court, and to compensate the displaced Sufis, facilitating restoration of their lost heritage, ruined homes, and businesses. The Sufis of Kattankudy seek "peaceful resettlement with honor."[47]

Similar clashes occurred in other parts of the country as well mixed with broadcast of extremist sermons and publication of extremist articles.

[46] Daya Hewapathirane, *Antagonism among Muslims in Sri Lanka*. 2013. Lankaweb. [Online]. Available at: http://www.lankaweb.com/news/items/2013/03/30/antagonism-among-muslims-in-sri-lanka/ [Accessed on 4th January 2021]
[47] Ibid.

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On 24th July 2009 there was a violent incident at Beruwela involving two Muslim Mosques, Bukhari Thakkiya mosque used by Sufis and Mahagoda Masjidur Rahman Mosque, which is a thowheed mosque. It started when the moulvi of the Masjidur Rahman mosque publicly dubbed the moulvi of the Sufi Bukari Thakkiya mosque and his congregation as kafirs (rejectors of Islam) because the latter were holding a "Kanduri" feast in honour of a Muslim saint. Two persons were killed, more than 40 wounded and around 132 were arrested as a result of the incident.

In the context of this incident, Police started looking for Kovai Ayoob, a controversial Islamic preacher from Coimbatore in Tamil Nadu, who had entered Sri Lanka on a tourist visa, but was violating the immigration rules by propagating, through public speeches, the ideas of the radical Wahhabist Tawheed Jamaath in Sri Lanka and creating tension between the fundamentalists and the traditional Sufis.[48] The article captures the tension that has grown between the traditional Islam followers or the Sufis and the followers of the newly growing thowheed group.

On 21st October 2011, the Moulavi who conducted the Friday sermon at the Grand Mosque on Central Road, Colombo preached that Sri Lanka was a State belonging to the Muslims and that prior to Buddhism arriving in Sri Lanka, the leader of the Muslim community Prophet Mohammad arrived in Sri Lanka from Madina. Further it was stated that there are artifacts in Anuradhapura even prior to 4000 years but that the Buddhists have hidden them and propagated Buddhism. He exhorted that action must be taken to propagate Islam and the Muslim community in all parts of the country.

[48] The New Indian Express, 3rd August 2009. [Online]. Available at <https://www.newindianexpress.com/world/2009/aug/03/lankan-police-hunt-for-muslim-preacher-from-tn-74151.html.> Accessed on 31st December 2020.

On 21st December 2011, Sri Lanka Brief reported that Western Province Governor, Alavi Moulana is to meet President Rajapakse to brief him on the threat posed to Eastern Province Sufi Muslims by armed groups funded by jihadi militants. He is quoted as having informed Ceylon Today that the Muslim armed groups operating in the east are systematically wiping out traditional Sufi Muslims in the area. He had stated that these armed groups follow the wahhabi school of Islam have considered Sufi Muslims as infidels and attacked several Sufi mosques and destroyed Sufi shrines. He alleged that these groups are funded by Middle Eastern countries. The report goes on to state that the SIS is probing into the operations of the Muslim armed groups in the East and the investigations have revealed that the groups are receiving funds from prominent international terrorist groups.

The glorification of suicide bombing was done in the print media. In January 2011, an article justifying suicide bombing was published in Vaiharai magazine.

In February 2013, the NTJ issued another edition of its magazine Thowheed wherein the practices of the Sufis were critiqued by referring to their practice of kanthuri, giving alms to the poor on the remembrance days of Sufi clerics, as equal to eating pork.

Some of the other violent incidents are:

a. July 1996: A Sufi Dhikr meditation center was destroyed allegedly by a thowheed mob in Kattankuddy, Batticaloa.
b. October 2004: An armed group calling itself "jihadi" and following the Wahhabi doctrine allegedly destroyed a library, Dhikr meditation center and around 20 houses belonging to Sufi followers in Kattankuddy.
c. November 2004: A prominent Sufi follower was shot dead allegedly by jihadi militants in Kattankuddy.

d. February 2009: A 150-year old Sufi Ziyarath (shrine) was destroyed allegedly by a thowheed group in Ukuwela, Matale.

e. 31 July 2009: Thowheed supporters allegedly abducted Moulavi Mohammad Rizvi who was then beaten up and questioned about his criticism of Thowheed groups.

On 8th June 2017 members of JASM attacked a cultural center belonging to the Shia sect situated at Meeraode at Valachcheni and caused injuries to three persons and damage to its property. JASM is practicing wahabism and was established in Sri Lanka in 1947 at Weuda, Paragahadeniya. During this period the ACJU was particularly concerned of the spread of the shia sect in Sri Lanka and conducted several religious meetings to meet the threat advocating marginalizing any sunni who converts to shia.

Different ways in which Wahhabism spread in Sri Lanka

Wahhabism spread in Sri Lanka due to several reasons. During the last thirty to fourty years, a large number of Sri Lankan Muslims found employment and opportunities for higher education through foreign scholarships in the Middle East particularly in Saudi Arabia and Qatar. Some of them adopted the wahhabism practiced there and sought to influence the Muslim community in Sri Lanka. They were instrumental in establishing several madrasas in the country. These madrasas became the conduits through which wahhabism was taught and which induced the Sri Lankan Muslims to adopt the Arabian culture. These developments saw a greater interest than before being developed in the sharia law and its practice.

Foreign Preachers

There was an increase of foreign preachers coming to Sri Lanka to preach Islam and they also brought the wahhabism and the Arabian culture. Wahhabis preachers such as Dr. Bilal Philips, he is banned in Germany and UK, Dr. Zakir Naik, he is banned in India and Bangladesh, Covei Ayub and P.K. Jainulabdeen, leader of the Tamil Nadu Thowheed Jamaat have come to Sri Lanka on a few occasions.

Sometimes the vigilance of the Sufi community prevented Wahhabis preachers from conducting mass sermons. For example the leader of the Tamil Nadu Thowheed Jamaat, P.K. Jainulabdeen was deported from Sri Lanka in 2005 due to their intervention. His visit was facilitated by Abdul Razik of the SLTJ. Later he tried to visit Sri Lanka on two other occasions which was prevented by the Sufi community.

The dress code also saw a change with the appearance of the Burkah and Nikab. The opening of the Saudi Embassy in Sri Lanka in the 1980s contributed to the spread of wahhabism through providing funds for construction of mosques and madrasas which propogated wahhabism.

Educational Publications

Alarmingly the spread of wahhabism in Sri Lanka has also been carried out through government approved Islamic educational books. It is unfortunate that these publications have been approved through official channels which indicate an abysmal failure on the part of the educationalists to be alive to the dangers of wahhabism and the modes adopted by its followers to propagate it. In this part of the report, a review of the educational publications is made with

reference to the identified portions which directly or indirectly promote wahhabism. In most cases, it has been done by promoting and recommending wahhabi scholars and their writings. The report first gives a background of the scholar and then to the relevant portions in the educational books.

Yusuf al-Qardawi is a devoted member of the Muslim Brotherhood, committed to the doctrine of the group's founder, Hassan al-Banna, and the effort to promote a "jihadi spirit" among the young, who has spoken in favour of suicide bombing. In classical Islam, the prohibition on suicide is very clear. The punishment is to eternally repeat the act of suicide in hell. Yet in the 1990s, Al-Qardawi endorsed suicide attacks. Although he revoked his fatwa (religious ruling) licensing suicide-attacks in 2015, according to experts there are two major problems with this.

First, Al-Qardawi's view remained troublesome on its own terms. Al-Qaradawi withdrew his support on the basis that by 2015 the Palestinians were able to hit Israel with rockets and other weapons, so suicide bombing was no longer necessary. And there is no sign that Al-Qaradawi has changed his decision, which he clarified after the 9/11 attacks when even many Islamists were reconsidering the scope of their terrorist activities, that there are no "innocent civilians" in Israel; all are legitimate targets for murder. To the contrary, as late as 2009 Al-Qaradawi issued a book that somewhat softened various of his positions, but on the core matters of jihad and the legitimacy of violence for the sake of religion, he remained unchanged, and the same year Al-Qaradawi called on God to Ibn Taymiyyah Ibn Taymiyyah "take this oppressive, Jewish, Zionist band of people ... and kill them, down to the very last one."

Zionism refers to a movement for (originally) the re-establishment and (now) the development and protection of a Jewish nation in what is now Israel. Zion

means the hill of Jerusalem on which the city of David was built as well as (in Christian thought) the heavenly city or kingdom of heaven. It is pertinent that one of the targets of the Easter attack was the Zion church in Batticaloa.

Second, despite Al-Qaradawi's efforts to limit what he had ever signed-up for by saying his ruling was only applicable in the narrow circumstances of the Palestinians resisting attack from a much more powerful Israel, the damage was done. Suicide bombing had been religiously permitted and normalized by a cleric regarded as mainstream. Salafi-jihadists had picked up Al-Qaradawi's warrant and vastly expanded the circumstances where these attacks were legitimate. It was only a matter of time before the suicide bombers were turned on Muslims.

It should be added that Al-Qaradawi's protests about the limited nature of his fatwa are rather deceptive. At nearly the exact moment he was disavowing the 1990s fatwa, he issued another ruling permitting suicide attacks in Syria — a ruling that still stands — adding only one condition: such attacks must be "within the planning of a group" and "the group must have a specific need for this". "An individual is not allowed to do it," said Al-Qaradawi. "You are not allowed to act on your own."[49] He was banned from entering UK in 2008 and France in 2012.

In a press release issued by the Embassy of the Arab Republic of Egypt in Colombo dated 15th June 2020, Al-Qaradawi was identified as one of the fountainheads of the banned terrorist Muslim Brotherhood organization, fanning religious hatred and promoting a cult of violence. It went on to state that he has been stripped of the Egyptian citizenship, banned from Egypt

[49] European Eye on Radicalisation, 29th April 2019. *Yusuf al_Qardawi and Terrorism* by Kyle Orton [Online]. Avaiable at <https://eeradicalization.com/yusuf-al-qaradawi-and-terrorism/>. Accessed on 1st January 2021.

decades ago, and escaped a life sentence in absentia issued by Egyptian courts of law. Charges against him include the implementation of acts of terrorism and violence inside Egypt that resulted in the loss of dozens of lives, the preparation of terrorist schemes in cooperation with the leaders of the Muslim Brotherhood and embracing Takfiri ideas. It went on to state that his name appears on the terror list of Egypt and several peace-loving countries and that Al-Azhar, Egypt's prestigious seat of enlightened Islamic education has expelled him long time ago considering him an incendiary extremist ideologue.

The COI was provided with a picture of Al-Qaradawi along with three Sri Lankan's taken on 28th April 2013. They are Inamullah, Naimullah (former member of the Central Provincial Council) and N.M. Ameen, President of the Muslim Council of Sri Lanka. The COI makes no findings against them due to time constraints but recommends that an investigation be conducted into their association with Al-Qaradawi.

In Islam Tamil Civilization Teachers Guide Grade 12, at page 79, quotes Yusuf al-Qardawi while in Islam Sinhala Teachers Guide Grade 13 which is effective from 2018, at pages 44, 63, 109 and 123 books written by him are recommended for further reading. In Islam Sinhala Teachers Guide Grade 12, which is effective from 2017, Yusuf al-Qardawi is identified as a recognized scholar at page 72.

The political ideology of Abul Ala Maududi represents the ideology of Ibn Taymiyyah of the Jamaat and is based on his two concepts; one, sovereignty belongs to God and purpose of every Muslim is to establish Gods rule on earth, and second, Islam is a complete and comprehensive way of life governing all aspects of life social, economic, political etc. Thus the main purpose of the Jamaat-e-Islami according to Maududi was to establish sovereignty of God on

earth known by other terms also, like Islamic state or Darul Islam. According to Maududi, "No doubt the Islamic State is a totalitarian state and comprises within its sphere all departments of life. But this totalitarianism and universality are based upon the universality of Divine Law which an Islamic ruler has to observe and enforce."

In Islam Tamil Teachers Guide Grade 12, which is effective from 2017, at page 85, books written by Maududi are identified as suitable books and it is also said that he is an accepted Islamic scholar. In Islam Civilisation Teachers Guide Grade 13, at pages 141, 142 and 147, writings of Maududi are identified as recommended readings. Similar recommendations are found in Islam Teachers Guide Grade 13 at page 131 and in Islam Sinhala Teachers Guide Grade 12 at page 3 and 72.

Ibn Taymiyyah, was born in 1263 in Harran, Turkey about 600 years after the Holy Prophet Muhammad (Sal). The Wahhabis refer to Ibn Taymiyyah as Sheikh Ul Islam and got their ideology from him. Ibn Taymiyyah was a person who liked to be different and was known for his peculiar and alien beliefs. He was disliked by the mainstream scholars of his time for trying to forge a new ideology that was opposed to the accepted views on Islam, well founded by a rich heritage of Scholars. We are told that all the Sunni Scholars (the two main divisions in Islam were the Sunnis and Shiites) of that time signed a document that he was preaching harmful and destructive practices and requested that he be put to death. He was accused of spoiling the faith of the Muslims of the

time and corrupting Islam. All the Four Schools (Hanafi, Shafi, Maliki and Hanbali Schools of Jurisprudence) of Thought at that time opposed him.[50]

Ibn Qyyim Al Jawziyya is identified as an Islamic extremist and is considered as a student of Ibn Taymiyyah..

In Islam Tamil Teachers Guide Grade 10, at page 3, and in Islam Tamil Civilization Teachers Guide Grade 12, at page 48, Ibn Qyyim Al Jawziyya is praised as a person who made sacrifices on behalf of Islam.

In Islam Sinhala Teachers Guide Grade 12 which is effective from 2017, at page 42, reference is made to writings of Ibn Taymiyyah.

In Islam Sinhala Teachers Guide Grade 13, at page 19, a book written by Ibn Taymiyyah is given as a recommended reading.

In Islam Sinhala Civilization Teachers Guide Grade 13, at page 21, the importance of an Islamic State is referred to and reference is made to Ibn Taymiyyah and his books.

In Islam Teachers Guide Grade 13, at pages 19 and 165, books written by Ibn Taymiyyah are identified as recommended reading and the cutting off of hands for theft according to Sharia law is endorsed.

In Islam Tamil Teachers Guide Grade 12, at pages 20, 85 and 158, Mohammed al-Ghazali is identified as a recommended author and is quoted as having said that Islam cannot be fulfilled without the power of government and that government power and Islam are twin brothers. He is further quoted as stating

[50] MENAFN, 27th June 2019, An open letter to all people that Wahhabism is not Islam and Islam is not Wahhabism: Part I by Imtiaz Thaha [Online] Available at https://menafn.com/1098695236/An-open-letter-to-all-people-that-Wahhabism-is-not-Islam-and-Islam-is-not-Wahhabism-Part-I Accessed on 1st January 2021

that if religion is the foundation, government power is the security fence. He is a member of the Muslim Brotherhood.

In Islam Teachers Guide Grade 13, at page 164, Rachid al-Ghannaouchi is explaining that Prophets objective was not only the religion but the land and the governing power. He is from the Muslim Brotherhood camp.

According to the political scientist Dore Gold, Muhammad Ibn Abd al-Wahhab formulated a strong anti-Christian and anti-Judaic stance in *Kitab al-Tawhid*, describing followers of both the Christian and Jewish faiths as sorcerers who believed in devil-worship, and cited a *hadith* attributed to the Islamic prophet Muhammad stating that punishment for the sorcerer is "that he be struck with the sword". Wahhab asserted that both religions had improperly made the graves of their prophet into places of worship and warned Muslims not to imitate this practice. Wahhab concluded that "The ways of the people of the book are condemned as those of polytheists."[51]

Muhammad Ibn Abd al-Wahhab's *Kitab al-Tawhid* is a recommended book in Islamic Education Series 1-10 Book 6 page 141 item no. 7 published by Ad-Darut Ta'limiyyah in Makkah. Thalimia.

In Islamic Education Series 1-10 Book 8, the biographies of Ibn Taymiyyah and Muhammad Ibn Abd al-Wahhab are recommended reading.

It is observed that in other parts of the Islamic Education Series 1-10 there is content that is not conducive to be taught in a multi religious country as Sri Lanka as it may have an adverse impact on religious cohabitation and harmony.

[51] Gold, Dore *(2003). Hatred's Kingdom: How Saudi Arabia Supports the New Global Terrorism*. *Washington, D.C.*: *Regnery Publishing*. p.25.

The COI recommends an immediate re-assessment of the contents of Islamic educational books in Sri Lanka with a view to identifying and removing extremist teachings and references to extremist writers. It also recommends an immediate evaluation of the contents of foreign books on Islam sold in Sri Lanka in order to identify extremist content. Members of the Sufi clerical order must be part of both these processes.

The COI also heard evidence of Wahhabist programs being aired over the Sri Lanka Broadcasting Corporation over a period of time. One who spoke against the IS and Wahhabism was later not given any air time. The evidence indicates that Ahamad Munuvar was responsible for this and later when questioned had said it was done as the SLJI did not want any air time given to that person. The son of Munuvar is married to the sister of Jameel. The COI makes no findings against Ahamad Munuvar due to time constraints but recommends that an investigation be conducted into his activities at the Sri Lanka Broadcasting Corporation.

Evidence was also heard of Sri Lanka Broadcasting Corporation air time being used by NIDA Foundation to engage in conversion of people from other religions to Islam.

Madrasah Education

The COI has also closely examined the structure of Islamic madrasas in the country.

There are three types of madrasas.

One is quran madrasas where small children are taught to read the quran. Generally it is held after school at the mosque closest to the house of the child and the duration is around one hour. There were 1689 registered quran

madrasas in the country in the country as at 21st April 2019 according to the Muslim Religious and Cultural Affairs department.

The other is Hifl quran madrasa where the child is taught to memorize the quran. Children who excel in Quran madrasas are admitted into Hifl quran madrasa. The program takes about two to three years. It is started around 12 to 13 years of age. There were 132 registered Hifl quran madrasas in the country in the country as at 21st April 2019 according to the Muslim Religious and Cultural Affairs department.

The third institution is Arabic colleges (Kitab madrasahs) where Arabic language and Islam is taught in detail with a view to producing Islamic Intellectuals and Moulavis. Children around 14 to 15 years attend these Arabic colleges. There are 317 registered and more than 150 unregistered Arabic colleges in the country as at 21st April 2019 according to the Muslim Religious and Cultural Affairs department. More than 100 applications had been received by the department after April 2019.

Existing shortcomings in the madrasah education system in the country has been identified within the Muslim community. In a Study on Contemporary Madrasah Education System in Sri Lanka by Community Association of Professionals[52] in 2020 the following findings are made:

1. There is a lack of legal basis for madrasahs to be registered under the Muslim Religious and Cultural Affairs department.

[52] Research team consisted of Ash-Shaikh M.F.M. Farhan, Ash-Shaikh M.A.A. Haris and Ash-Shaikh M.M. Masoud while the Editorial Committee consisted of Mr. S.A.C. Mohammed Zuhyle, Dr. (Mrs.) Fareena Ruzaik and M.A.M. Hakeem.

2. There is no centralized body to supervise or evaluate the existing madrasah system in the country in terms of curriculum, management and other associated matters. Due to this every single madrasah is run on their own systems and patterns – asymmetric pattern of functioning and administration.
3. Ninety six percent (96%) of the madrasahs are functioning as tamil medium madrasahs and notably other languages such as Sinhala and English are not given adequate attention and training.
4. Seventy five percent (75%) of the madrasahs enroll students under sixteen years of age.
5. Only Fifty two percent (52%) of the madrasahs are following the syllabus framework prepared by the Department of Examinations and published by the Department of Muslim Religious and Cultural Affairs for the *Al-Alim Muthawassithah* and *Al-Alim Sanawiyyah* Examinations.
6. Even though both national languages are taught in the madrasahs, these languages are not given sufficient prominence by the management as well as students.

In considering the socio-political character of the country, the study makes the following recommendations:

1. The madrasahs must be governed by an appropriate legal authority and supervised by a statutory authority.
2. A madrasah Accreditation Board should be formed under the Department of Muslim Religious and Cultural Affairs.
3. The registered madrasahs and several unregistered madrasahs must be brought under the proposed Accreditation Board. It is recommended to introduce a rationalization scheme through the Accreditation Board considering the Muslim population in each district and develop a ratio considering the population or consider the entire Muslim population.
4. To maintain the certain/possible ratio of medium of instruction of the madrasahs throughout the country giving prominence to Sinhala.
5. There must be a standard student admission criteria and it is recommended to have the G.C.E. Ordinary Level qualification as the admission criteria.
6. Both national languages along with English must be taught at all madrasahs.

There is also Ahadiya schools which is a Sunday school. There are 585 registered Ahadiya schools in the country as at 21st April 2019 according to the Muslim Religious and Cultural Affairs department.

The COI heard evidence that the registration of these institutions have not been properly regulated in the absence of guidelines on their registration. In view of the threat from wahhabism identified in the report, the COI recommends that madrasas be regulated as done in some Muslim countries. Guidance may be obtained from the Madrasah Education Ordinance No. IX of 1978 of Bangladesh found at Appendix VIII.

There is also the question of the registration of Muslim welfare associations. It appears that the attempt by the Muslim Religious and Cultural Affairs Department to register such associations had to be stopped due to a judgment of the Civil Appellate High Court of Eastern Province in Case No. EP/HCCA/TCO/FA/215/17 wherein it was held that the Wakfs Act does not provide for such registration. This aspect must be examined and provisions made in the Wakfs for the registration of Muslim welfare associations.

The PSC Report noted that the spread of Wahhabism and the Arabization of Kattankuddy has contributed to the growth of extremism in the Islamic community especially in the East. [53] All those who joined the IS in Sri Lanka were Wahhabi in their ideology and identified themselves as thowheed. None of the local or traditional Muslims known as Sufis joined the IS. All the suicide bombers involved in the Easter attack were Wahhabi in their ideology.

It is pertinent to note that as far back as 24th March 2014, the Daily Mirror carried an article written by an organization named *Peace loving moderate Muslims in Sri Lanka* calling upon the government to ban the Thowheed Jammat organizations immediately.

In identifying wahhabism as a contributory factor to the growth of extremism, it is important to make a clear distinction between Islam per se and Islamism. Islamism has been defined as a religious ideology with a holistic interpretation of Islam whose final aim is the conquest of the world by all means. This definition is composed of four interrelated elements. The first is a religious ideology, the second a holistic interpretation of Islam, the third conquest of the world, and finally the fourth and the last element is the use of all means in the search for the final objective.[54]

In nailing down the growth of extremist tendencies within Southeast Asian Islam to the institutionalization of Islamism in the body politic, parlance and psyche of Muslim political actors in the region, it is important not to bark up the wrong tree. The problem here lies with Islamism rather than Islam per se. Islamists or adherents of Islamism have ideologically politicized Islam such that

[53] Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019, Parliamentary Series No. 183, p. 125.
[54] Mehdi Mozaffari, *What is Islamism? History and Definition of a Concept*. [Online] Available at <https://pure.au.dk/ws/files/22326292/What_is_Islamism_Totalitarian_Movements_article.pdf>. Accessed on 2nd January 2021.

matters of faith, spirit and morality—cardinal elements of a religion, are overwhelmed by politico-legal considerations in efforts to accomplish the ostensibly noble task of erecting an Islamic state (*dawlah Islamiyyah*). Driven by the belief that Islam provides comprehensive solutions to all problems of life once its systems are implemented, a political Islamist invariably regards a *sharia*-based juridical state on earth as the be-all and end-all of the Islamic struggle.[55]

Therefore, in adopting counter radicalization action against Islamic extremism and terrorism, it is important to win over the moderate and traditional Muslims and to prevent Islamophobia being ingrained in society. Opposition to terrorism in the name of Islam has come from within the Muslim community itself. One example is the actions of the Muslim community in Saindamarudu against the suicide bombers who blasted themselves on 26th April 2019. They recognized the danger and alerted authorities who at the same time were on their trail due to efficient work by the SIS and law enforcement authorities. The dangers are from the wahhabists. To be a wahhabi is a risk factor as they can be radicalized into a IS member without much effort.

The position outlined above of the spread of Wahhabism in Sri Lanka and the violence associated with it forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony from religious clerics, affected parties from Kattankuddy and other parts of the country.

[55] Ahmad Fauzi Abdul Hamid, May 18, 2016. *ISIS in Southeast Asia: Internalized Wahhabism is a Major Factor*. [Online]. Available at https://www.mei.edu/publications/isis-southeast-asia-internalized-wahhabism-major-factor. Accessed on 2nd January 2021.

Chapter 6

Islamic State in South Asia and Sri Lanka

In this chapter, the origins of the IS and its influence in Sri Lanka is discussed along with some insights into the scrutiny these developments received at different levels of the security apparatus.

Professor Rohan Gunaratna in an article titled, *The Rise of the Islamic State: Terrorism's New Face in Asia* in "From the Desert to World Cities: The New Terrorism" states that the ISIS began with an Al Qaeda-associated group in Iraq, Tawhid Wal Jihad, renaming itself Al Qaeda in Iraq which then changed its name to Islamic State of Iraq and then finally to the Islamic State of Iraq and Sham (ISIS).

On 29th June 2014, the leader of the ISIS, Abu Bakr Al Baghdadi, announced the promulgation of a Caliphate in parts of Iraq and Syria and other parts of the world and changed the name of the group to Islamic State because it had expanded beyond Iraq and Syria. Abu Bakr Al Baghdadi adopted the *nom de guerre* of Islam's very first Caliph Abu Bakr (632-34 CE). One important element of the narrative Zaharan used to recruit members was the creation of a Caliphate.

The term Caliphate (*khilāfah* in Arabic) refers to an Islamic State headed by a Caliph (*khalīfah* in Arabic) who is a person considered a politico-religious successor to Prophet Muhammad and a leader of the entire Muslim world (ummah).

There have been several Caliphates in the history of the world with the first being the Rāshidun Caliphate (632–661 CE) headed by Abu Bakr. It ended in 661 CE with the formation of the second Caliphate, the Umayyad Caliphate, by Banu Umayya which existed until 750 CE. The third Caliphate, the Abbāsid Caliphate, was ruled by the Abbāsids and existed until 1258. Several other Caliphates existed until 1924, the last being the Ottoman Caliphate from 1517 to 1924. On 3rd March 1924, the first President of the Turkish Republic, Mustafa Kemal Atatürk, constitutionally abolished the institution of the caliphate leading to the establishment of Westphalian model of territorial states across the Middle East.

Hence the promulgation of the Caliphate by the IS on 29th June 2014 was an attempt to portray itself as the Caliphal institution *de novo*. A map was issued online in 2014 (Figure 1) showing the areas that the IS planned to have under its control by 2020. Significantly Sri Lanka was identified as part of the *Khurasan* Province along with India, Pakistan and Iran[56]. *Khurasan* was the name used to identify the area east of Iran, Afghanistan, parts of Turkmenistan and Tajikistan during the 7th and 8th century after the Arab conquest of Central Asian countries.

[56] John Hall, "The ISIS map of the world: Militants outline chilling five-year plan for global domination as they declare formation of caliphate – and change their name to the Islamic State," *Daily Mail*, 30 June 2014



Figure 1

The map showed the intention of the IS to expand into North Africa and Asia as well as Europe, the Balkan States and Spain which was part of the Caliphate until the late 15th century.

According to Naveed S. Sheikh, the IS was identified as a legitimate caliphate by its own adherents only and scholars across the Muslim world denounced it as sedition (*fitna*) and rebellion (baghy), both categories of serious offences within the classical Islamic penal system[57].

[57] Naveed S. Sheikh, *Five Charges in the Islamic Case against the Islamic State* in From the Desert To World Cities; The New Terrorism, Konrad Adenauer Stiftung (2015) 44

IS and South Asia

In January 2015, Abu Muhammad al Adnani, a chief spokes-person of ISIS, announced the establishment of "Wilayat Khurasan", its South Asia wing, an imaginary territory made up of those nations within South Asia. Adnani announced that the new IS province would be headed by Hafiz Saeed Khan, a former Tehrik-e-Taliban Pakistan commander, A governing council was established most of whose members were militants formerly associated with the Tehreek-e-Taliban Pakistan and other connected groups.

India was the first country in South Asia to officially designate the IS as a terror group. This was done soon after the identification of a pro-IS Twitter handle owner as an Indian citizen from southern India[58]. Bangladesh banned radical Islamist groups while Pakistan and Afghanistan took steps to address the issue.

The IS propaganda was directed at uniting Muslims affected by border and ethnic confrontations in India, Bangladesh, Myanmar, Pakistan, Thailand, Philippines and Indonesia around the IS and to motivate them to resort to terrorist attacks on behalf of the IS ideology.

Bangladesh witnessed a hostage crisis situation, perpetrated by Islamic State-affiliated operatives, on 1 July 2016. The violent extremists stormed into the Holey Artisan Bakery, a restaurant popular among foreigners in an upscale neighbourhood in Dhaka. They hacked and stabbed to death 20 hostages including Indian, Italian, Japanese, and US citizens. A twelve-hour siege ended with the security forces' gunfight with the jihadists. Two law enforcement officers and five attackers were killed in the incident. Although this particularly gruesome attack received global attention, the country has experienced

[58] Rajeshwari Krishnamurthy in *Terrorism and Youth in South Asia*, From the Desert To World Cities; The New Terrorism, Konrad Adenauer Stiftung (2015) 145

several small-scale attacks and targeted killings in recent years. Jihadists have murdered at least 40 writers, publishers and activists, foreigners and members of minority faiths since 2013. Between 2013 and 2017, there were 50 incidents involving violent extremism resulting in 255 deaths and 942 wounded.[59]

Perhaps the most intriguing aspect of IS recruitment in Bangladesh is their ability to attract well-educated, tech-savvy young members from well-off families. When the identities of IS operatives started to be revealed (following the previously mentioned arrests in 2015), people from the higher middle class and wealthier strata of society became really worried. Previously, Islamic militancy in Bangladesh was thought to be a phenomenon limited to only religious institutions and the poorer strata of society. The new generation of violent extremists emerging in Bangladesh has brought into question this conventional belief. A large number of foreign fighters who left Bangladesh to join IS—as well as many of the operatives who stayed in Bangladesh and were involved in attacks—went to private universities in the country or abroad. Among them are several who went to universities in Malaysia. Thus, the IS-affiliated group in Bangladesh has successfully recruited professionals such as physicians, engineers, technologists, architects and even singers and ramp models. Arrested operatives include sons of a former Supreme Court judge, former military officials, a former bureaucrat, a political leader of the ruling party, and an adviser to a former caretaker government of the country.[60]

This feature is common in relation to the IS recruitment in Sri Lanka as well.

One aspect of the narrative used by the IS affiliates in Bangladesh is common to the narrative used by Zaharan namely criticism of the democratic structure.

[59] Saimum Parvez, *"The Khilafah's Soldiers in Bengal": Analysing the Islamic State Jihadists and Their Violence Justification Narratives in Bangladesh"*, Perspectives on Terrorism, Vol. 13 Issue 5 page 23
[60] Ibid. page 27

In various statements, IS operatives describe the current state of Bangladesh as a taghut (tyrannical rulers who arrogate God's absolute power and use it to oppress people[67]), and its government as anti-Islamic. They believe that democracy is an ideology of shirk (worshiping anyone besides Allah) because the principles of democracy are manmade. The IS views mainstream political parties of Bangladesh—particularly the BNP, Awami League (AL) and Jamaat-e-Islam—as murtaddins (apostates from Islam).[61]

IS and Sri Lanka

The first Sri Lankan known to have joined the IS is Mohomed Muhushin Ishak Ahamed who worked in a non-governmental organization "Islamic Help" prior to proceeding to Tanzania on an internal promotion in 2009. After several years of service there he proceeded to Syria through Turkey on 13.08.2013 with his wife and five children and joined the IS.

Mohomed Unais Mohomed Ameen is a Sri Lankan by birth and studied at Zahira College, Maradana from Year 1 to Ordinary Level Examination. He proceeded to Australia in 2007 and obtained his Australian citizenship. He returned to Sri Lanka on 20th May 2014 and six days later on 26.05.2014 he proceeded to Syria and joined the IS.

Mohomed Zuhair Mohomed Aroos proceeded to Australia in 2005 on a student visa and stayed on until 2012 when he was sent back to Sri Lanka for overstaying his visa. Whilst in Melbourne, Australia, he attended the Alfurkhan mosque where he got to know Haroon Moulavi. Jameel Mohomed, the Tropical Inn bomber also forged a close association with Haroon Moulavi and

[61] Ibid, page 28

Mohomed Zuhair Mohomed Aroos after attending the same mosque. Thereafter under the guidance of Mohomed Muhushin Ishak Ahamed, Mohomed Zuhair Mohomed Aroos proceeded to Syria through Turkey on 12.11.2014 and later got married to Mohomed Muhushin Asma Ahamed, the eldest daughter of Mohomed Muhushin Ishak Ahamed in March 2015.

Mohomed Muhushin Sarfas Nilam aka Abu Surairah Seylani brother of Mohomed Muhushin Ishak Ahamed studied at Kingswood College, Kandy and later proceeded to Pakistan. He returned to Sri Lanka in 2009 and worked at an international school in Galewela as the Principal from 2013 to January 2015. Prior to that, he worked at Amana International School, Kolonnawa. At one time he also worked as a Urdu translator for the Unani Medical students at the Open University, Nawala. On 15.01.2015 he proceeded to Syria through Turkey with his wife, Thajul Judhi Thajudeen, and six children and joined the IS on the guidance of brother Ishak Ahamed . Nilam was killed in a drone attack in Syria on 12.07.2015.

The father of Ishak and Nilam is Mohomed Sahid Mohomed Mushin and the mother is Nurul Inya Sahabdeen. Both of them were in Syria but returned to Sri Lanka on 29th January 2016.

On 20.01.2015 Mohomed Thawzi Thajudeen, the elder brother of Thajul Judhi Thajudeen (wife of Mohomed Muhushin Sarfas Nilam), travelled to Syria through Turkey with his wife, Seenathul Arfa Farouk, three children, mother, brother Muhammad Thasker Ahamed Thajudeen aka Abu Dhujana Al Seylani and servant and joined the IS under the guidance of Mohomed Muhushin Ishak Ahamed who is a relative.

Muhammad Thasker Ahamed Thajudeen aka Abu Dhujana Al Seylani was killed in an air strike in Syria on 30.05.2017. Seenathul Arfa Farook was also killed in an air strike on 17.10.2018.

According to SIS records about 38 Sri Lankans had proceeded to Syria by July 2015.

During the time they were in Sri Lanka, Mohomed Muhushin Sarfas Nilam aka Abu Surai Seylani and Muhammad Thasker Ahamed Thajudeen aka Abu Dhujana Al Seylani used the mosque belonging to ACTJ at Mallikarama Road, Dematagoda for their religious activity. There Jameel met Nilam and forged a close friendship.

There is evidence that one Haroon led a protest in Kattankuddy during which protestors carried flags resembling the IS flag. There was no evidence as to the exact time at when the protest took place. He is alleged to be a member of the Sri Lanka Freedom Party having close links to M.L.A.M. Hisbullah.

In 2015 Rajeshwari Krishnamurthy observed that, Sri Lanka's counter-strategies to combat radicalization and recruitment into terrorist groups are yet to be seen, especially due to the change in leadership that took place in January 2015. The leadership appears to be focused more on other domestic issues such as combatting corruption, economic development and bringing stability to the Northern Province[62].

Yet Sri Lankan authorities were aware of the early signs of pro-IS activity in Sri Lanka which became the subject of discussion at intelligence co-coordinating as well as NSC meetings.

[62] Rajeshwari Krishnamurthy in *Terrorism and Youth in South Asia*, From the Desert To World Cities; The New Terrorism, Konrad Adenauer Stiftung (2015) 146

Initially it was decided to closely monitor and properly assess networking of IS terrorism in Sri Lanka. Further decisions were made to adopt all possible preventive methods to counter any recruitment efforts to IS from Sri Lanka. The TID was to explore possibilities of listing of IS under UNSCR 1267 in consultation with the Attorney General's department.

Towards the latter part of 2015, the need to develop interactions with regional countries in order to create a regional database to counter emerging regional terrorism such as the IS was discussed. Further discussion centered on a new law to be formed in order to address "Religious Extremism/Terrorism" and that more sophisticated methods should be adopted to shield the penetrations and improve early detection.

The focus also shifted to regulating the visa on arrival system in order to disrupt the free movement of foreign terrorist fighters. This focus saw some developments in that there was a change in the procedure adopted in issuing visas to foreign religious preachers.

On the 18th of November 2016, Hon. Wijedasa Rajapakse, Minister of Justice made a speech in Parliament during the budget debate wherein he highlighted facts about Sri Lankans with IS connections. He mentioned that 32 Sri Lankans from four families had gone to Syria and joined the IS and that they were educated. It was further stated that foreign preachers are coming to Sri Lanka on tourist visas and conducting sermons in areas such as Beruwela, Kaleliya, Kalmunai and Kurunegala and spreading extremism by distorting the minds of the Muslim youth.

This part of the speech appears to have been an attempt to bring the growth of the IS support in Sri Lanka to the public focus. Unfortunately, it was not well received in certain quarters and was the subject of strong criticism by many Muslim members of Parliament as well as religious and other leaders. Tariq Mahmud, President of the National Shoora Council in an open letter dated 19th November 2016 questioned the rationale behind sensationalizing something past and that he believed that the Minister was not updated on the issue. On 19th November 2016, Minister Rauf Hakeem during his speech in Parliament questioned on what information was the statement about the spread of Islam extremism was made. Minister Rishard Badiudeen speaking on the same day stated that there is no connection between Islam and IS and that Muslims never believe in arms and that if anyone is assisting a terrorist organization like the IS, the whole Muslim community will jointly rise against it. On 18th November 2016 Hafees Nazer Ahamed, Chief Minister of the Eastern Province addressing a ceremony in Saindamarudu condemned the speech. M.N. Ameen, Chairman of the Sri Lanka Muslim Council stated that Muslims always condemn terrorism and violence and the Ministers speech is a hindrance to co-existence and social unity. The United Thowheedh Jama'ath by letter dated 22nd November 2016 addressed to the President disagreed with the speech. On the 22nd of November 2016 Member of Parliament Mujibur Rahuman made a scathing attack on Minister Rajapakse and accused him of trying to drag the country to extremism and make it a blood bath by creating racism.

Around mid-May 2017, the SIS became aware that a person known as Abu Hytham@Millah Seylani, whose true identity was known to the SIS, was working in sending persons to Afghanistan (Khurasan) for a sum of Rs. Two

hundred thousand. He had also claimed to a social media contact that the plan to do certain acts in Sri Lanka as part of the Khurasan province had suffered a set-back due to the arrests of the NTJ activists as a result of the fight at Aliyar junction, Kattankuddy on 10th March 2017. The Aliyar junction incident involved Zaharan's NTJ and led to the arrest of amongst other Shaini. He went on to state that although he had been in touch with a person in Muttur to purchase arms, the person has shown reluctance after the arrests of the NTJ activists. He was known to be a close associate of Zaharan. He had further stated that the goal of establishing a IS Khalifa in Sri Lanka with the help of the IS supporters and sympathizers had failed as a result of the arrests of the NTJ activists.

During the same period, the intelligence and security authorities decided to stay alert during the week of wesak festival since the IS pose a threat to non-Muslims in the world by lone wolf attacks targeting crowded areas.

A few months later a decision was made to implement a central mechanism to identify and de-radicalize Muslim youths who bare extremist ideologies such as the IS. It was further suggested to have an effective surveillance system to identify locally radicalized personal and personal suspected to have links with foreign terrorist fighters since there is a possibility of Sri Lanka being used as a transit hub for extremist activities.

In July 2017, the Secretary Defence directed to enhance surveillance further on radicalized personnel focusing more on "Locations" in order to detect any unusual behavioural pattern or movements. A few months later, the CDS informed that the foreign terrorist fighters of the IS are moving back to their

native countries after the recent defeats of the IS in Syria and Iraq. The Director of the DMI informed that these groups may attempt to interact with extremist Muslim elements in Sri Lanka. At this point, Director SIS mentioned that there is no legal provision to arrest such individuals arriving in Sri Lanka and therefore the CNI was instructed by the Secretary Defence to compile a report on such issues in order to identify counter mechanisms. Later the Secretary Defence instructed the CNI to bring this matter to the notice of the Attorney General to obtain further clarification on the legal perspective.

During November 2017, it was decided to study UNSCR 2253 of 2015 on IS and Al-Qaida in order to identify mechanism to counter the possible activities of IS and Al-Qaida in Sri Lanka.

On 27th November 2017, an interview with Prof. Rohan Gunaratna was published in *Ceylon Today* wherein he highlighted that there are a few hundred IS supporters in Sri Lanka and that the IS spreading like wildfire in South Asia. He urged the Government to be proactive rather than reactive and emphasized the need to create a legal framework to prevent incitement of ethnic and religious hatred. He proposed that the few hundred IS supporters should be put in a rehabilitation centre and those who raise funds be punished. He perceptively drew the attention of the government to the fact that extremist ideologies are coming to Sri Lanka both in physical space and cyberspace.

Towards the end of 2017, the CNI, Director SIS and Director DMI briefed the Secretary Defence on the possible radicalization of Muslims in Sri Lanka and its future consequences.

In early February 2018, the deportation of a Sri Lankan, whose identity is known to authorities, arrested by Turkish authorities with Al-Qaeda

involvement was discussed. The Secretary of Defence instructed the CNI, CDS, IGP, Director SIS and Director DMI to analyze this matter further. This development should have been viewed with great caution in view of the contacts this person is alleged to have had according to foreign intelligence sources. In particular, he had connections with a person identified as Abu Abdullah al-Yemeni aka Abu Abdullah al-Australi aka Ahamed Lukman Thalib aka Abu Abdulla, who was identified as a probable Al-Qaeda operative. Ahamed Lukman Thalib aka Abu Abdulla facilitated the arms and weapons training in Syria to Sadeeq, Muneef and other SLJISM activists.

In mid-May 2018, the Secretary Defence directed the Director of the SIS to brief H.E. the President on the counter measures taken to curtail the IS influence in Sri Lanka and the threat posed by social media.

The activities of IS operatives in Sri Lanka was also observed by foreign counter parts as well. On 10th August 2018, Pakistani authorities shared with the Sri Lankan High Commission in Islamabad, Pakistan vital information regarding a Sri Lankan national. During routine monitoring it was found that he is an active member of the Daish's (reference to the IS) online networks and is planning/in process of preparing explosive devices from easily available chemicals. Jihadi material retrieved from the suspect included details of preparation of IEDs, VBIEDs/IEDs and ac bombs/IEDs, encryption key instructions/use guide, weapon training manuals. Some pictures of the suspect were also included in the material handed over. The COI noted with concern that this communiqué does not appear to have reached the Sri Lankan Defence authorities and recommends that an investigation be conducted into this omission.

IS operates in both Muslim majority countries and Muslim minority countries. The mechanism of the IS is co-operation of existing groups, Muslim groups and

then take them from the exclusivism they already have like the NTJ like the JMI and get them to join IS. The Arabic name and the name that is used here among IS members is called Dawala, Dawla Islamia. Accordingly, JMI and NTJ are to be considered as extremism group which converted themselves to terrorists.

The position outlined above of the IS and its supporters in Sri Lanka forms part of the evidence before the COI obtained through oral and documentary evidence from intelligence agencies and other witnesses and includes expert testimony.

President Secretariat

Chapter 7

Early Days of Zaharan Hashim

Zaharan was born on 15th October 1986. His father was Hayath Mohammadu Mohammed Cassim and mother was Abdul Cader Siththi Saveema. His brothers were Shaini and Rilwan both of whom died at Saindamarudu on 26th April 2019. He had two sisters, Mohomad Cassim Hidaya, who also died at Saindamardu on 26th April 2019 and Mohomad Cassim Madaniya, who is presently in remand custody.

The name given to Zaharan at birth was Mohammad Cassim Mohammad Jaharan. His national identity card bearing number 862014685V and passport bearing number N2017422 were issued in that name. According to his wife, he started using the name Zaharan after 2009.

It appears that during his young days, Zaharan was not attracted towards any extremism. As a student in the 1990s he did not agree with the Thablik Jamath views when he attended one of their madrasas in Kattankuddy. Zaharan studied about the Qur'an from Jamayathul Mosque in Kattankuddy for about three years from 1998.

Zaharan started attending Jamayathul Falah madrasa in Kattankuddy around 2001 to learn Islam. During this period he became acquainted with Naufer who began to influence him towards wahhabism. As a result Zaharan started to argue with the lecturers at the madrasa which resulted in his expulsion from the madrasa in 2005 for disobedience and extremist ideology.

Around 2005/2006, Zaharan started an organization named Daarul Adhar ad Da'iyyah in Kattankuddy which is Wahhabis. At this point of time Zaharan did

not talk of a Caliphate. Zaharan and Naufer together with Nashmal moulavi, Ashfar moulavi, Rauf and Thawfeek were at Daarul Adhar ad Da'iyyah.

Zaharan met Hadiya around 2005 at the Arabic school in Kekunagolla when he went to meet Naufer who was married to a sister of Hadiya's mother. The two families were living close to each other in Kekunagolla. Zaharan wanted to marry Hadiya in 2005 when she was around 10 years old. However Hadiya's father had said it was too early and that the marriage can take place after the Advanced Level examination.

Thereafter Naufer arranged for Zaharan to join the Ibunu Masjid madrasa in Kekunagolla and Anukkana madrasa, Kurunegala. Around 2006 Zaharan lectured at Masjithul Fawushan Mosque, Hondenigoda that day to day life must be based on the Holy Quran and Hadith while speaking against the traditional thinkers. By this time Zaharan had embraced wahhabism.

From the end of 2007 to 2009 he did further studies at Imami Masood Madrasa (Kottaramulla Jumma Masjid Mosque). Then he joined the Islamic Centre which also taught wahhabism. Towards the end of 2008 he left this center.

Around 2009, due to a dispute with the management of Daarul Adhar ad Da'iyyah, Zaharan left the organization along with Thowfeek and Shaini and established the NTJ. It was registered as a social service organization with the Divisional Secretariat, Kattankuddy on 15.12.2015.

Zaharan proceeded to Japan in January 2009 at the invitation of a friend named Hyder Ali. He stayed there for about three months and returned in March, 2009. Zaharan and Hadiya got married on 16th October 2009.

They stayed at Zaharan's parent's house for about three months and then moved out by renting a house. Thereafter they lived alternatively at Zaharan's parent's house and at Kekunagolla. Later they moved to Ganetenna, Mawanella where they resided for about seven months. During this time Zaharan used to go to Akurana for sermons.

They had two children. Their first child, a son Mohomad Zaharan Mazim, was born on 30th October 2011. The second child, a daughter, was born on 7th July 2015. The son, Mohomad Zaharan Mazim, who died at Saindamarudu explosion on 26th April 2019 was eight years old. The second, a daughter, Mohomad Zaharan Rudeina, survived the explosion at Saindamardu and was handed over to the parents of Fathima Hadiya.

By 2009, Zaharan was openly identified as a thowheed supporter. By this time he and Naufer appear to have fallen out and Naufer had proceeded to Qatar for employment. In an article written in 2009[63], Zaharan is identified as the Propaganda Secretary of the thowheed group operating in Kattankuddy. Zaharan claims that they are not responsible for any of the incidents and that their members numbering around 2000 practice true Islam. Zaharan had critiqued the practices of the Sufi Muslims and said that they are following the wrong route. He denied that they got funding from West Asia or that they had arms. However, the interviewer testified that during the interview with Zaharan at his office, he observed some T-56 weapons in the premises.

It appears that Zaharan and his followers did have some T-56 weapons by 2009 which was obtained during the LTTE period although the exact time at which they came to possess them and the amount is not clear. The evidence indicates that Rilwan had buried them since the security forces started to check for

[63] Chris Kamalendran and Asif Fuard, *Unholy tension in Lanka's Muslim East*, Sunday Times 16th of August 2009

weapons at the end of the amnesty given to surrender the weapons in 2009. Later they had been sold through the intervention of Firdousz. It appears that they were not in an operational condition at that point of time.

Therefore, the evidence before the COI indicates that Zaharan was identified as an extremist around 2009 when he is identified in mainstream media as a thowheed supporter.

Between 26th February 2013 to 22nd October 2014, the members of the Alhaj Abdul Jawan Alim Waliullah Trust, a sufi group, lodged eleven complaints against Zaharan and his group NTJ at the Kattankuddy Police station. These complaints were against statements made by the NTJ against their group and the spiritual leader Moulavi Alhaj A. Abdul Rahumman Mispahi Pasji. As a result of the complaint made in 2014, proceedings were begun in M.C. Batticaloa Case No. B 897/2014 and Zaharan appeared in court. These proceedings appear to have been terminated in December 2017.

On 2nd March 2013, in the magazine titled *Thowheed* and published by the NTJ, Zaharan critiques Alavi Moulana, Governor of the Western Province for having taken part in a seminar titled Kampankala on 26th February 2013 and posing for a photograph with a pottu on his forehead. He was also criticized for not speaking against the attempts to establish a Buddhist State in Sri Lanka by organizations such as the BBS, Jathika Hela Urumaya, Sinhala Ravaya and indulging in the worship of tombs which according to Zaharan was against Islam.

The strongest criticism was made at a statement said to have been made by Alavi Moulana, Governor of the Western Province that there is an armed organization named Wahhabis organisation operating in the Eastern Province.

Zaharan states that there are no such organisations as Wahhabis either in Sri Lanka or the whole world and the reference to Wahhabis organization is one directed at thowheed organisations.

Interestingly the COI found that Zaharan had given an interview to a candidate of the Bandaranaike Centre for International Studies as part of his thesis which dealt with Muslim militancy. The interview had been conducted on 22nd October 2013. During the interview Zaharan made the following points:

a. The Muslims in Sri Lanka are harassed regularly while authorities are not taking adequate action to prevent it. He also pointed to the fate of the Muslims in Myanmar.
b. The Muslims in Sri Lanka do not have freedom to express their grievances.
c. He called upon the Government to immediately stop the activities of "Sinhala extremist groups" such as Bodu Bala Sena and Ravana Balaya.
d. The books by Minister Patali Champika Ranawaka which discuss Muslims in Sri Lanka must be banned as they contain allegations on Muslim extremist groups which are fictional.
e. There is no necessity for cultural assimilation amongst the Muslims in Sri Lank as it would damage the culture of Muslims.
f. Muslims are required to strictly adhere to the teaching of Al Qur'an and Sharia law is mandatory for all Muslims.

The candidate goes on to state that when he pointed out that the Buddhist movements such as Bodu Bala Sena and Ravana Balaya were recent phenomenon which did not exist a few years back and the reason why they came to exists, Zaharan could not provide an adequate answer.

On 1st May 2014 Alhaj Abdul Jawaadh Alim Waliyyullah Trust complained to the Commander Security Forces – Eastern Province, Major General Lal Perera of threats that the group is receiving from some other Muslim groups that they identified as Islamic Terrorist Groups. The group included the NTJ and the name of Zaharan. Major General Lal Perera summoned Zaharan and warned him to refrain from acts of violence. However it appears that the warning was to no avail as Zaharan continued his attacks against Sufi groups.

Sometime during 2014/2015, M.L.A.M. Hisbullah enquired from Zaharan whether he needs assistance to construct a mosque which was rejected by Zaharan. However Zaharan obtained the assistance of Shibly Farouk to get permission from the Police to hold meetings and to use loudspeakers. During the same period Zaharan intervened at the request of Hisbullah and Shibly Farouk to resolve a dispute between the two. The meeting was held at the NTJ mosque in Kattankuddy and five representatives from each party took part.

Zaharan and his group actively canvassed for President Maithreepala Sirisena and his party at the Presidential elections held in January 2015.

On 15th April 2015, a Muslim museum was opened in Kattankuddy under the auspices of M.L.A.M. Hisbullah, Member of Parliament for Batticaloa District. Although the Muslim community in the area was happy of this development, organizations like the National Front for Good Governance and the NTJ opposed it as the museum contained statues and mementoes which according to them were contrary to Islam.

On 30th July 2015, Zaharan and NTJ issued an open letter to the political parties contesting the general elections in August 2015 informing that if they agree to the conditions set out therein, the NTJ will support them at the elections and if

not, the NTJ will work against them. It was also mentioned that the conditions have been sent to all Muslim candidates contesting the election. Some of the conditions were not to forget the religion on behalf of politics, not to use firecrackers, no processions, no music at political meetings and not to help anyone who is considered to have left Islam.

Shibly Farook (Sri Lanka Muslim Congress), M.L.A.M. Hizbullah (Sri Lanka Freedom Party) and Abdul Rahman (National Front for Good Governance) have agreed to the terms.

It appears that Zaharan's group tacitly supported the Sri Lanka Muslim Congress at the Parliamentary Elections held in August 2015. A web paper named Waar Urehal was published while a facebook page was also maintained by Zaharan's group in support of this campaign which was controlled by Niyas who died at Saindamarudu on 26th April 2019.

Soon after the General Elections it became known that M.L.A.M. Hisbullah was to be appointed as a National List Member of Parliament from the Sri Lanka Freedom Party. Shortly after the appointment took place the supporters of M.L.A.M. Hisbullah celebrated it. In the course of the celebration they attacked Rilwan and the NTJ mosque causing Rilwan head injuries.

The COI saw a video recording of a meeting that has taken place where the Leader of the Sri Lanka Muslim Congress took part with several other persons. Zaharan is seen taking part in the discussion. Rauf Hakeem explained that the visit was to see the damage to the mosque after it was attacked by the supporters of M.L.A.M. Hisbullah.

The COI saw evidence of Rauf Hakeem been accompanied by Shibly Farouk visiting Rilwan at the Batticaloa hospital. Although Rauf Hakeem sought to explain the visit as one to see all the affected, the evidence indicated that they first proceeded to where Rilwan was undergoing treatment. The COI did not hear any evidence of the Sri Lanka Muslim Congress having connections with Zaharan and his group thereafter.

Around 2016, Zaharan started posting posts similar to IS ideology on his facebook page and justifying brutal acts of the IS such as killing of non-Muslims. Zaharan referred to *Abu Bakr al-Baghdadi*, leader of the IS, as a descendent of Prophet Muhammad by referring to the Kuresh tribe. Significantly, in the video depicting the bay'ah (meaning pledge of allegiance/oath of allegiance to a leader) given by the suicide bombers on 20th April 2019 before carrying out the Easter attack, Zaharan refers to *Abu Bakr al-Baghdadi by reference to* Kuresh tribe. It was around 2016 that Naufer returned to Sri Lanka and made up with Zaharan. The evidence before the COI is that somewhere in August or October 2016, Naufer gave Zaharan a pen drive containing IS videos showing the beheading of enemies.

On 4th March 2016, Zaharan held a program at Meeraode junction, Valachcheni under the theme the harm caused to Muslims by the Shia sect and criticized several of their actions.

On 9th July 2016 Zaharan criticized the statements made by Indian media frequently that Dr. Zakir Naik is inspiring Indian Muslims towards extremism and terrorism through his programs on Peace TV channel. Previously he had come to Sri Lanka on two occasions and conducted sermons at Sugathadasa Stadium on 25th May 2010 which was attended by about 20,000 and on 26th January 2011 in Batticaloa which was attended by about 150 people.

From 4th September 2016, Zaharan conducted seminars every Sunday at its office in Kattankuddy 3 under the theme Islamic State and Calipha. The concept of Hijrath was also discussed which means travelling from a non-Muslim country to an Islamic State.

On 16th October 2016 Zaharan and some of the members of the NTJ met a few members of the JMI at the wedding of one Hosni Mubarak at the Maradamuna Kabeer Mosque. This appears to be where Jameel and Ilham met Zaharan for the first time. This meeting led to a close association between NTJ and the JMI leading to several members of the JMI attending training camps conducted by Zaharan.

During the same time, Zaharan started to complete building the NTJ mosque in Kattankuddy. One Haja Naleem, a Singaporean, gave five million rupees towards the construction of the mosque.

On 18th November 2016, Zaharan published on his facebook about the IS activities and the present situation in Syria.

On 20th November 2016, Zaharan conducted a sermon about the activities of BBS General Secretary, Rev. Galagodaaththe Gnanasara thero and the arrest of Abdul Razik. He went on to state that if the acts of Rev. Galagodaaththe Gnanasara thero was committed in an Islamic State, the punishment would have been beheading, hanging, stoning or exile. He stated that Abdul Razik was arrested as he spoke on behalf of the Muslims.

On 9th December 2016, Zaharan made a sermon at the NTJ mosque in Kattankuddy on Islam and the Caliphate. He explained that Prophet Muhammad established an Islamic State by taking the sword and waging war and killing enemies. He went on to state that Muslims should wage war and

that he (Zaharan) is not afraid to die and that he should also die after waging war. The video of this speech was shared on youtube.

These public pronouncements indicate that Zaharan had progressed to violent extremism by the end of 2016. This is further fortified by the use of swords against the Sufi's at Aliyar junction incident in March 2017.

On 22nd January 2017, Zaharan published on jihad and the consent of non-Muslims in relation to jihad.

On 13th February 2017 the NTJ conducted a sermon at its office in Kattankuddy titled "Why is the Islam Calipha needed? For What? How is it to be achieved?" Zaharan was the speaker and highlighted the concept of the Islamic State. He also referred to the oath "Bayyath" and said that it must be given with a sword or weapon in hand after a Khalifa is appointed and thereafter all Muslims must act as he dictates. He also said after the death of a Calipha the intelligent Muslim society must be able to appoint another Calipha.

On 2nd and 4th March 2017, Zaharan published letters on his facebook explaining the concepts of Islamic State and the Khalifa and claimed that it is mandatory for Muslims to wage war by jihad.

Zaharan was an avid user of the social media and communications apps to propagate his ideology and recruit followers and build international contacts.

The position outlined above of the activities of Zaharan forms part of the evidence before the COI obtained through oral and documentary evidence including intelligence and includes people living in Kattankuddy from the days Zaharan was active.

Chapter 8

Zaharan in Hiding

In early March 2017 the NTJ distributed pamphlets in Kattankuddy inviting people to attend a meeting of theirs on 10th March 2017 in Kattankuddy. It said that the meeting is to inform people as to why the NTJ calls Sufi Muslims as people having left Islam.

On 10th March 2017, the members of the NTJ were preparing a stage near the Aliyar junction in Kattankuddy 6 area on Qarbala road for Zaharan to deliver the sermon. Then members of the Ishtihad Sunnathul Wal Jamath confronted the NTJ members and asked them not to conduct a sermon there. However there was an altercation between the two groups and one of the Sufi Muslims was attacked with a sword and sustained cut injuries. As a result an altercation took place between the groups. 8 members of the NTJ and 2 members of IASWJ were arrested.

As a result of this incident, the Sufi Muslims handed over a petition to the Presidential Secretariat in person informing that Zaharan should be arrested. This had been referred to the Ministry of Post and Muslim Religious Affairs.

On 11th March 2017, Niyas, one of the NTJ members killed in Saindamarudu on 26th April 2019, made a note on his facebook page referring to the Sufis as people considered as having left Islam and to the fatwa issued by the ACJU in 1979 confirming this fact.

On 13th March 2017, the Sufis demonstrated in Kattankuddy calling for the arrest of Zaharan. They also made a complaint to the Kattankuddy Police on 15th March 2017, against the facebook post by Niyas.

On 27th March 2017 the Waliullah Trust complains against Zaharan to the President's Office, Prime Minister's Office, Ministry of Justice, Ministry of Law and Order, State Ministry of Defence, Attorney General, IGP and the TID.

After the Aliyar junction incident Zaharan fled the area. His wife Hadiya and the two children left for Kekunagolla.

Zaharan had knowledge of the internet acquired through practical experience. Initially Naufer and later Hasthun helped him with the use of the internet. Hasthun met Zaharan around April 2016 when he came to the NTJ mosque in Kattankuddy. Zaharan told Hadiya that he is a member of the IS.

During this period Zaharan created a group called Ansar Kilafat on the telegram application which had more than two hundred members. Zaharan told Hadiya that the telegram application is safer than whatsapp application. Hasthun installed the telegram application for Hadiya. Hasthun operated an electronic shop.

For some time after he went into hiding, Zaharan was not active on his facebook account. On 18th August 2017, Zaharan reactivated his facebook account.

Hence forth Zaharan began posting material on his facebook encouraging violent activities. He began by taking up the cause of the Muslims killed in Myanmar. On 2nd September 2017 Zaharan stated that they must fight against these killings. He followed it up on 17th September 2017 by publishing about dying gloriously as a mujahideen performing jihad.

It appears that this post drew some criticism from some Muslims. On 10th November 2017, Zaharan responded by critiquing the Muslims who had criticized the word jihad without knowing its true meaning.

During mid-November 2017 violence erupted in Ginthota between some Sinhala and Muslim groups.

Depending on which side of the village tells the tale the villains vary, but at least most people agree that it started out with a minor traffic accident on 12th November, escalated into repeated scuffles between the village boys and eventually morphed into horrific communal violence. On Thursday (16), the night before the violence, a local Muslim politician, hoping to run in the forthcoming Local Government elections, reportedly led a mob from surrounding areas to attack Sinhalese residences in Gintota. Police arrested three persons including the local politician after three homes were damaged in the attack. On Friday night, the reprisals came. Bringing back bitter memories of the Aluthgama communal riots in 2014, dozens of Muslim homes and businesses were burned and vandalised. In predominantly Muslim areas, the destruction of property is immediately apparent. Three-wheelers, motorcycles, a brick business and shops were set on fire by the attackers, carefully chosen targets to destroy means of income and livelihood.[64]

Revealing the line of events which took place in the area leading to the violent incidents yesterday, Police Media Spokesperson Ruwan Gunasekara said the first incident had taken place on November 13, but it had no literal connection to the incidents that followed. "On November 13, a Muslim woman and her daughter were hit by a motorbike driven by a Sinhalese man. All three were injured and hospitalised. They were discharged after treatments and the issue was settled outside the Police as the bike rider had given Rs.25,000/= as

[64] Dharisha Bastians, Financial Times, 23rd November 2017. *Gintota and the Shadows of Extremism*. [Online]. Availablke at < http://www.ft.lk/opinion/gintota-and-the-shadows-of-extremism/14-643843> Accessed on 7th January 2021.

compensation to the woman and her daughter. Thereafter, bike rider was released on police bail," he said. On Thursday, an attack had taken place in retaliation over the accident. "However, no one with links to the accident was present at the scene which took place on Thursday in which one Muslim was injured," he said. Later on, two houses owned by Sinhalese persons had been attacked and one Sinhalese individual had been injured. The chain of events had then escalated and was brought under control by Friday with the help of politicians and religious leaders.[65]

On 19th November 2017 a few days after the incidents at Ginthota involving some Sinhalese and Muslim groups, Zaharan uploaded a video onto his facebook page where he spoke in favour of the Caliphate, Hijrath (where Muslims travel from other countries to a Islamic State), Sharia Law and jihad (sacrificing one's life for Islam).

Beginning from end 2017, Zaharan held training camps and seminars in different parts of the country although he was on the run from the Police.

Zaharan held his first training camp at Rambewa, Medawachchiya during November 2017. Around 13 persons had taken part in this camp and had given a pledge using a T-56 weapon.

He also took the initiative to hold a seminar at Panda Multi Sports Arena, Malwana on 16th December 2017 in order to settle a dispute that had arisen within the JMI due to ideological differences. Umayar Mohammad had taken

[65] Daily Mirror, 18th November 2017. *Gintota situation under control, 19 arrested*. [Online] Available at <http://www.dailymirror.lk/140639/Gintota-situation-under-control-arrested>. Accessed on 7th January 2021.

the view that jihad should be performed by going to Syria and fighting for the IS. On the other hand, Jameel had taken the view that jihad should be performed in Sri Lanka.

Towards the latter part of 2017 and early 2018, Zaharan began criticizing the democratic governance structure of the country some of which had violent undertones directed towards the judiciary. This was based on his understanding that there is no room for democracy in an Islamic State.

Around 25th and 27th of December 2017, he released a video criticizing the legislature and the judiciary and declared that a person who lives according to Qur'an and Sunna should not respect the legislature and the judiciary. He went on to elaborate that according to Allah, the Parliament is a place belonging to kafirs (non-Muslims). In relation to the judiciary, he said that Muslims who seek the assistance of the courts of non-Muslims reject Allah and that Muslims who reject Allah such as judges and lawyers must be killed which is a great act of jihad.

He turned his attention towards the political parties in a video issued on 6th January 2018 titled "Islamic State Concept and Sri Lankan political Parties". He said that there is no democracy in an Islamic State and that only jihad, jisya (charging of taxes from non-Muslims) and Sharia law exist in an Islamic State. These pronouncements of Zaharan are a clear indication that for him, there cannot be any other religion or democracy in an Islamic State. In fact he made a strong criticism of the chanting of pirith inside a Muslim mosque at Tennakumbura area in Kandy.

The strategy to attack the democratic governance structure in order to attract recruits is a strategy employed by the IS world over. In an IS propaganda video

filmed in Syria, three Bangladeshi jihadists praised the Holey Artisan Bakery attack in Bangladesh and called for jihad. In his statement, one of the jihadists first blamed democracy (or 'manmade laws') as the problem and presented armed struggle as the solution. In his words: "If we look at the situation of Bangladesh today, [we see how] governments have replaced Allah's [divine] diktats with manmade laws. That is why they have become taghut, they have become kafirs. And jihad—as in armed fight against them—has become *fard-e-ain* (an individual obligation)."Similarly, another IS operative in that video called democracy a shirk ideology and emphasized replacing democracy with Sharia law. He criticized three types of people; the government of Bangladesh, its employees, the general populace and supporters of democracy, questioning how they could 'support this shirk ideology called democracy' where people determined the laws of the country in Allah's stead. A similar view is also found in their online magazine Dabiq, where it is stated that "Democracy is a religion that believes in giving people the power to legislate and make things halāl and harām, whereas that is the right of Allah alone."[66]

Zaharan was not the only person to criticize democracy within the Muslim community. On 12th January 2018 during a sermon at the Masjid Thowheed Jumma Mosque organized by the SLTJ, it was said that democracy is contrary to the teachings in Islam and the thowheed ideology.

From around the end of 2017, Zaharan was in contact with one Abu Hind who was in India. Naufer also knew and communicated with Abu Hind. Zaharan told Hadiya that Abu Hind has links to Syria. They used to speak in tamil using threema and telegram apps. They used to send each other voice recordings.

[66] Saimum Parvez, *"The Khilafah's Soldiers in Bengal": Analysing the Islamic State Jihadists and Their Violence Justification Narratives in Bangladesh"*, Perspectives on Terrorism, Vol. 13 Issue 5 page 28

Abu Hind used to inquire about Zaharan's safety. Abu Hind used to send voice recordings of some of his sermons. Once he sent Zaharan details of a suicide attack carried out by a 15 year old child in Syria. Zaharan also used to chat on messenger with people in Qatar and Saudi Arabia.

Incidentally, on 23rd August 2017 local media published reports of an Indian named Mohommed Shafi Armar@Chhote Maula@Anan Bhai@Yousuf Al-Hindi who had been included in the list of world terrorists as a "specially designated global terrorist" as he was involved in recruiting to the IS. He had been acting as the agent in the Indian sub-continent for the IS and is considered as the first Indian to join the IS. He had by this time recruited about 50 Muslim youth to the IS from India, Bangladesh and Sri Lanka.

There is strong evidence, both direct and circumstantial, that by early 2018, Zaharan had taken a decision to launch attacks in Sri Lanka with a view to create a path towards the establishment of an Islamic State, *Province Willayath Ceylani*, in Sri Lanka. This was fuelled by several factors. The primary driver was the IS ideology and its activities around the world. It was also driven by the wahhabist ideology, which is also part of the IS ideology, which he had by then come to embrace without reservation. In order to attract followers, he was planning to attack the Kandy Esala pageant and create disturbances between the Sinhala and Muslim communities and then exploit the pressure that the Police and security forces will bring upon Muslims to recruit aggrieved Muslims and launch attacks on Police and Army camps in the East and collect weapons. As part of the recruitment strategy, he used incidents targeting Muslims around the world and in Sri Lanka.

Towards achieving this objective, he held several training camps where the participants were given a theoretical explanation in the use of weapons such as

T-56, pistol and knife. They were also given some training in avoiding identification by intelligence and law enforcement authorities. This was combined with several extreme religious, political and violent speeches freely made available on social media to attract followers.

Zaharan's activities in hiding can be attributed to any terrorist organization operating in the world at its early stages such as conduct of lectures and classes, weapons training etc. systematic approach towards a war.

On 20th February 2018 Zaharan uploaded a video on his facebook account referring to jihad and states that true followers of Islam should fight to protect Islam (jihad) without subjugating to other religions. He referred to a song sung by former Media spokesperson for the IS, Asheik Abu Muhammad Al Adnani in Arabic where it is stated that to die on behalf of God is a privilege and that all the sins are forgiven of a person who dies on behalf of Islam.

As part of his strategy to induce his followers towards terrorism, Zaharan also sought to undermine the electoral process by dissuading the Muslims from exercising their franchise. He sought to do so by releasing videos on his facebook account claiming that the exercise of franchise to elect representatives of the people is against the Islamic teachings.

On 25th and 28th of January 2018 he urged followers not to cast their vote at elections since Muslims will not be able to practice Islam 100% when there is democracy and that persons elected by votes create laws going above Allah and his holy books Qur'an and Hadith which is against the thowheed principles. Again on 4th February 2018 Zaharan issued a video criticizing the casting of votes at elections and questioning how the ACJU can claim that it is in

accordance with Islam. According to him voting at elections is against Islam. Thereafter, he released videos on 6th and 7th of February 2018 where he claims that democracy is rejected in Islam. He went on to elaborate that since democracy totally rejects thowheed, Muslims must in turn reject democracy. He called on Muslims to boycott the local government elections to be held on 10th February 2018.

Sometime in February 2018, there was tension between the Sinhalese and Muslim communities again in some part of the country such as Ampara, Digana and Teldeniya.

Towards the end of February 2018, an incident occurred in Ampara which once again led to tension between the Sinhalese and Muslim communities in some parts of the country. The incident was triggered by a rumour that a Muslim-owned eatery was serving members of the Sinhalese community food containing chemicals affecting their fertility leading to a clash on Monday night. A mosque and several properties owned by Muslim members of the community, including several small shops close to the mosque, a street-side hotel and several vehicles were set alight by a group of men after an argument erupted between some men and the owner of a street-side hotel in Ampara town.[67]

The incident that sparked violence on the streets of Digana occurred on 22 February, when a 42-year old Sinhalese man was brutally assaulted for attempting to overtake a three wheeler. After nearly 10 days in the Intensive Care Unit of the Kandy General Hospital, the man succumbed to his injuries on 3rd March (Saturday), correspondents in the area said. All four accused, who

[67] Chathuri Dissanayake, *Cabinet Ministers Raise Concerns over Ampara Incidents* Daily Financial Times 28th February 2018. [Online] Available at < http://www.ft.lk/front-page/Cabinet-ministers-raise-concerns-over-Ampara-incident/44-650298> Accessed on 7th January 2021.

were immediately arrested and remanded until 7 March, hailed from Digana town, the reports said. The funeral of the victim was held yesterday and likely triggered the violence, police reports coming out of the area said. The man who had been killed in Teldeniya was the sole breadwinner of his family and a hard worker, said Hamzah Rahmath, a social worker in the area. The incident on the road had been over a three-wheeler side mirror, Rahmath said. The accused in the killing had been intoxicated, the social worker added. "Now the whole community is in trouble because of their mistake," Rahmath said.[68]

Zaharan wanted to exploit the situation to the maximum possible to attract disgruntled Muslim youth to his organization. Towards this end, he uploaded a video on 5th March 2018 onto his facebook page on the incidents in Digana and Teldeniya. He requested Muslims to take up arms, attack and kill those who fight against Muslims and claimed that Islam cannot be peacefully co-exist with non-Muslims. Zaharan called upon them to pay no heed to persons speaking of peace, and had preached against thinking about consequences which follow the launch of retaliatory attacks. He had further stated that revenge would be taken from those people who caused damage to Muslims. In his speech Zaharan made specific reference to jihad.

It appears that his attempts were successful to a certain extent. Sadeeq testified that he connected with Zaharan after the Digana incident who told him that he is working according to the ideologies of the IS. However, it appears that Sadeeq held training camps for his associates much earlier to connecting with Zaharan. A training camp was held at Thoppur, Nallur, Muttur in November or December 2017 which was conducted by Sadeeq and attended

[68] Daily Financial Times, 6th March 2018. *Digana Turns Divisive*. [Online]. Available at < http://www.ft.lk/top-story/Digana-turns-divisive-/26-650661> Accessed on 7th January 2021.

by about 6 people. So far there is no evidence of Zaharan having taken part at this training camp. Sadeek had given a practical demonstration of removing and loading of the T-56 weapon. The house used for the training belongs to Haja Mohideen a friend of Sadeek. It was a one day camp.

The first training camp Zaharan held after the Digana incident attracted a larger number of participants than the ones before it. It was held at Enrich Bungalow at No. 147/7/A, Dharmasoka Mawatha, Lewella, Kandy from 23rd to 25th March 2018 where around 25 participated. Lectures were delivered on Islamic extremism, the IS and its activities by Zaharan and Naufer respectively and Milhan gave training on loading a T 56 with the help of two T 56 weapons. Hasthun explained how to use a VPN for the mobile so as to evade security forces and intelligence agencies and advised the participants to obtain sim cards which will not reveal one's identity.

The numbers increased even more at the next training camp. Three more training camps were held at Thaxila Holiday Resort at No. 56/1, Temple Road, Shanthipura, Nuwara Eliya from 30th March 2018 to 1st April 2018 where around 15 to 20 persons took part, from 4th May 2018 to 6th May 2018 where around 30 to 35 persons took part and from 7th May 2018 to 8th May 2018 where between 25 to 30 persons took part. Hayathu Mohommed Ahamed Milhan gave lectures on the use of T56 and pistol by giving practical demonstration of removing the weapons and re-fixing it. Mohommed Hasthun gave lectures on the making of bombs. Extremist lectures were given by Zaharan and Naufer.

Zaharan ensured that his lectured contained practical examples so as to attract Muslim youth who were provoked by such incidents. Some of his lectures had primarily focused on the incidents in Myanmar and the Buddhist extremist

movement in Japan named Aum Shinrikyo, about which Zaharan had written an article on Facebook. According to evidence, Zaharan had stated that intelligence officers had held an inquiry against him for publishing the said article.

Zaharan had also stated that Ven. Galaboda Aththe Gnanasara Thero had met a priest from Myanmar and visited Japan where he may have met with representatives of Aum Shinrikyo movement. In order to make it more convincing, Zaharan had stated that matters were becoming worse for Muslims, with the only remaining incident to occur be deaths of Muslims.

During the month of May 2018 to coincide with the Ramadan period, Zaharan launched a propaganda exercise to convince Muslims that jihad is closely associated with the Ramazan period. On 17th and 18th May 2018, he released videos on his facebook discussing about mujahideens and jihad. He said that mujahideens are people who take up arms and fight non-Muslims and jihad is where persons spend and sacrifice their life on behalf of Allah. He further stated that only Imam Al Buhari and Imam Al Muslim have correctly written books on hadith referring to the actions of Mohomed Nabi. He went on to state that the shortest way to heaven is to perform jihad in order to establish the sovereignty of Allah. Zaharan had earlier referred to the book published by Al Baghdadhi titled "Messenger of Allah, Leader of War" on the life of Nabi Mohomed and said that it must be used in Muslim Schools and Arabic Schools in Sri Lanka to inculcate the concepts of jihad and Islamic State in the minds of Muslim children.

According to Hadiya, during this fasting period Zaharan referred to a group who had given a pledge for Zaharan as the leader in Sri Lanka and Abu Bakr Al Baghdadhi as the leader in Syria.

On 22nd of May 2018, Zaharan published a video titled "Don't hesitate to Wage Jihad" and states that the way to heaven after getting pardoned for all the sins committed during lifetime is to wage jihad. Then on 27th May 2018 Zaharan released a video on the importance of the Ramasan month. He said that during the lifetime of Nabi, he waged 73 wars out of which 11 were waged during the Ramasan month. He has also stated that the shortest route to heaven is to wage jihad against non-muslims during the month of Ramadan and that Muslim youth should keep this in mind.

During the month of June 2018, the focus of Zaharan appears to have been to justify the actions of the IS and to downplay the actions of Turkish President Marasef Taif Ergodan in comparison to them.

But he began the month by targeting the Sufi community. Zaharan published a letter on his facebook page on 1st June 2018 referring to certain class of Muslims who are worshipping tombs and claimed that they are seeking the protection of politicians and destroying Islam. He referred to this group as Isthihad Ahlul Sunnathul Wal Jamath, Sufis, and claimed that they are doing this as they are unable to cope up with the work of the Wahabists and Thawheedths.

On 17th June 2018 he uploaded a video on his facebook titled "Those who defame the Islamic State must get Scared of Allah". He justifies the actions of the IS and condemned the moulavis who have spoken against the IS. He stated that since Abubacker Al bagdhadi was able to interpret the Al Qur'an in 10 different ways, the majority of the Muslims are agreeable to accept him as the Calipha of Islam. Soon thereafter he praised the actions of the IS in letters

released on 21st and 24th June 2018, claiming that the jihad IS is waging is correct.

On the same day Zaharan published a letter on his facebook account stating that the win in the Turkish elections is not one of the entire Muslim world since it is part of the western agenda and that only Abu Bakr Al-Baghdadi is correctly nurturing an Islamic State.

On 28th June 2018 Zaharan distributed a video on his facebook account referring to Turkish President Marasef Taif Ergodan where he claimed that although it was the place where the last Islamic State ended and all the Muslims in the world expect him to establish an Islamic State, it will not happen as Turkey is a multi-ethnic country with western influence. In this context it is important to note that when President Mustata Kemal Ataturk came to power in Turkey in 1924 and established democracy, it ended the Islamic State Caliphate that was in existence from 1517 to 1924 as part of the Ottoman Empire.

In this context, Sri Lankan defence authorities should take serious note that an organization named Hizb-Ut-Tahrir operating in Turkey has declared that an Islamic State will be established in 2024, before 100 years of the collapse of the last Islamic State. This organization was established in 1953 by a Palestine national named Taqiuddin Al-Nabhani and pledged to establish an Islamic state. The Indonesian branch of this organization was banned on 19th July 2017. This organization has a presence in Sri Lanka and is operating in areas such as Eravur, Valachchenai, Ottamavadi, Kattankuddy, Ampara and Trincomalee.

During July 2018, Zaharan continued to propagate and justify the IS ideology and actions. On 4th July 2018 he shared a letter on his telegram account praising the act of Abu Baker Al Baghdadi in sending his son Huthaifa Al-Badri to fight as an example for Muslim leaders. He died in fighting. Later he uploaded videos where he states that it is compulsory for Muslims to perform jihad and claimed that the Muslim leaders who criticize IS should be scared of Allah. On 30th July 2018 Zaharan uploaded a video where he states that Allah had advised Nabhi on taking of arms and performing jihad and that it is the duty of all Muslims to do so which the present Muslim leaders have forgotten.

The propaganda plan of Zaharan appears to have been paying dividends as reflected in the successful training camp held at No. 67/4/1, Near Shimila Bakery, Sippikulama, Hambanthota from 7th to 8th July 2018 and 20th to 22nd July 2018.

Around 20 to 25 persons took part in the training camp held from 7th to 8th July which was led by Zaharan. Weapons training using a T56 weapon were given by Milhan. It was a theoretical training in the dismantling and assembling of it. Training in the preparation of bombs was given by Rilwan. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS.

About 25 to 30 people took part in the next training camp at these premises from 20th to 22nd July 2018. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Hayathu Mohammadu Ahamadu Milhan had given training in the use of T56, it was a theoretical training in the dismantling and assembling of it, pistol and knife whilst Rilwan gave lectures in the

preparation of bombs. Out of the dead, Zaharan, Hasthun and Ilham Ahamed took part.

During August 2018, Zaharan continued promoting the IS and jihad in order to attract more supporters. He did this by projecting that jihad by the use of arms is part of the religious teachings.

On 10th August 2018, he released a video wherein he claims that the shortest route to paradise is to take to arms and perform jihad on behalf of Allah.

On 15th August 2018, Zaharan meets a group of his supporters in Mawanella and establishes a small group to act as the secret investigators group. It comprised of Milhan as the head, Sadeeq, Gaffor Mama and Sameer. Naufer and Hasthun also took part in the meeting. One of the earliest tasks assigned to the group was to get information of Police stations in Colombo, Navy Headquarters and the Police Headquarters. The team was also assigned to assassinate two person who had left the Islam.

The allegiance of Zaharan to the cause of the IS reflected by two incidents that occurred within a day during this month. On 22nd August 2018 IS leader Abu Bakr Al-Baghdadi issued a voice recording on the official IS media "Al-Furkhan Foundation Media" titled "Give Glad Tidings to the Patient" on behalf of the hajj festival. He called upon his supporters and sympathizers to increase the attacks directed at non-Muslims using vehicles, bombs and sharp weapons called such attackers "Striking Lions". He went on to state "Oh Caliphate Soldiers...Trust in Gods' promise and his victory. For with hardship come relief and a way out".

On the very next day, 23rd August 2018, Zaharan issued a letter on social media calling for the protection of Calipha Abu Bakr Al-Baghdadi and hoping that he receives the assistance of Allah to spread Islam by conquering many countries. He went on to hope that Allah's assistance will be received by the heroes of the Islamic State to cut the necks of non-Muslims.

Another training camp was held from 26th to 28th August 2018 at No. 67/4/1, Near Shimila Bakery, Sippikulama, Hambanthota where around 30 to 40 people took part. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Hayathu Mohammadu Ahamadu Milhan had given training in the use of T56, pistol and knife whilst Hajji Mohammad Mohammadu Hasthun had given training in the use of explosives. Out of the individuals who died on 21st and 26th April 2019, Zaharan, Shaini, Hasthun, Muath took part. In addition Sadeek and Shahid took part.

In the early hours of 27th August 2018, Rilwan suffered life threatening injuries whilst experimenting with explosives at Palamunai, Kattankuddy. Earlier in May 2018, Milhan and Rilwan were involved in procuring chemicals used in the manufacture of bombs from Pettah. Zaharan and a few members of his group came to Colombo to enter Rilwan to the National Hospital. This is a further indication of the terrorist plans that Zaharan and his group were putting together and that Zaharan and his group had by now become terrorists rather than extremists. More details of this incident are discussed in Chapter 12.

According to the testimony of Sadeeq, Zaharan had abandoned the process of preparing explosive devices after this incident until a conversation between DIG Nalaka Silva and Namal Kumara was publicized by media. The contents of the conversation had allegedly stated that bombs may be created using Nitric

Acid and Urea. According to Sadeeq, Zaharan had revived his attempts to create explosive devices consequent to this conversation.

The COI did not come across a video with the above content. However, there was evidence that during a conversation between Namal Kumara and one Thushara Pieris, a Sri Lankan residing in France, reference was made by Thushara Pieris to urea.

On 31st August 2018 the NTJ issued a formal letter stating that Zaharan and Shaini were removed from its membership. Yet both of them continued to have contacts with NTJ members. It appears that the NTJ did this in order to prevent the danger of a bad name for the organization in view of their activities aimed at establishing an Islamic State in Sri Lanka. This may have been also a result of the incident involving Rilwan experimenting with explosives.

Although there is no record of any training camps being held during September 2018, probably due to the Rilwan incident, Zaharan published some ominous videos on his facebook during this period.

On 15th September 2018 Zaharan released a video claiming that jihad will be launched in the near future against non-Muslims as retaliation for attacks launched against mosques, business places and houses of Muslims. He went on to state that revenge will be taken for every drop of blood shed as a result of attacks targeting Muslims and that in the near future there will be a dangerous war and that soon the day will dawn where Muslim youth will take up swords against non-Muslims chanting Allahu Akabar (God is great). He went on to state that the roads will be drenched in blood and that Muslims will perform jihad fearlessly facing the attacks of the kafirs.

This is one of the most significant indications of Zaharan preparing to launch attacks against non-Muslims. This information came to the attention of the SIS.

Zaharan followed it up with a letter released on his facebook on 26th September 2018 where he referred to the analysis made by the media spokesperson for IS, Ashsheik Abul Hassan Al Mujahiri about sura 9:14 of the Qur'an and he states that Allah has strengthened his arms to attack non-Muslims and that Allah will confer benefits and privileges on persons who fearlessly act for his goals.

During this period it was observed that Zaharan is sharing letters on social media with his followers based on IS propaganda published in tamil on a telegram account named "Ansarul Khilafah".

The training camps began in October with one being held at Blue Eye Inn, 181/01 Blackpool, Nuwara Eliya. It was held from 6th to 7th October 2018 and around 20 to 25 persons took part in the training. Zaharan lectured on Islam extremism, Naufer on the IS, Ilham Ahamed on the use of T56 weapon and pistol. Out of the individuals who died on 21st and 26th April 2019, Zaharan, Ilham and Hasthun took part.

It appears that Zaharan was vigilant of people who may pretend to be IS supporters but are in fact intelligence operatives. On 10th October 2018 Zaharan issued a letter on his facebook account claiming that a person called Pakkam Bin Abu who maintains a facebook account by that name is in reality an informant of the Indian intelligence although he publishes material justifying the IS ideology. He went on to state that Pakkam Bin Abu has come to Sri Lanka and while staying in places like Puttalam and Kalpitiya, tries to build close relationships with Sri Lankans sympathizers/supporters of the IS

and then give information about them to the Indian intelligence agencies. In response Pakkam Bin Abu has on 11th October 2018 claimed that Zaharan was an agent of Israel intelligence and that although he tries to project himself as a hero by attracting youth towards the IS ideology, he is in fact equal to a lady.

On 19th October 2018, Zaharan provided another critical insight into upcoming events when he uploaded a video on his facebook titled "Destruction of the Throne of the Crusaders" where he discusses the burning of the throne of non-Muslims and beheading them based on the contents of the Qur'an and Hadith. The term "crusaders" is a reference to Roman Catholics.

Towards the end of October 2018, Zaharan reiterates that Muslims should reject democracy and that Muslims who live according to the orders of Allah cannot respect democracy. He further stated those who respect democracy are the opponents of Muslims.

Zaharan began November with another significant post on his facebook when he posted on a picture of a IS fighter and noted that although Allah had provided an opportunity to the IS fighters to perform jihad on behalf of Islam, he does not have the opportunity although he had the power to do so. The reference to the power he had is significant.

During November 2018, Zaharan and his group held two more training camps. The first was at No. 67/4/1, Near Shimila Bakery, Sippikulama, Hambanthota. It was held from 3rd to 4th November 2018. Around 25 to 30 people had taken part in the training camp. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Milhan had given training in the use of T56, pistol and knife whilst Hajji Mohammad Mohammadu Hasthun had given

training in the use of explosives. Out of the individuals who died on 21st and 26th April 2019, Zaharan and Hasthun took part. Shahid also took part.

The second camp was held at Blue Eye Inn, 181/01 Blackpool, Nuwara Eliya from 16th to 18th November 2018 and around 15 to 25 persons took part. Zaharan lectured on Islam extremism, Naufer on IS, Milhan on the use of T-56 and pistol, Hasthun on the use of knives. Out of the individuals who died on 21st and 26th April 2019, Zaharan and Hasthun took part.

On 12th December 2018, Razik Mohammed Faiz aka Police Faiz issued a message on his facebook page stating that special intelligence units had been deployed by the Ministry of Defence units to investigate Zaharan and his followers and that they are collecting information. Police Faiz was an active member of the group Mujahideen which was active in the East during the war. By this time, Police Faiz had developed contacts with Zaharan. The Asian Tribune of 28th August 2007 carries an article title "Militant Wahabism beats other Islamic fundamentalists in Sri Lanka" where it is stated that "the latest victim of Wahabism is "Colonel" Lateef in Oddamavadi. In the early part of August, Colonel Lateef was gun down *(sic)* by the prominent Wahabist militant 'Police' Faiz in Oddamavadi."

Zaharan was gradually evolving his group to begin jihad (holy war) as described by him which was unexpectedly disrupted with the detection of the Wanathawilluwa camp by the CID investigators investigating into the Mawanella incident. The testimony of Sadeeq was that Zaharan expedited the attack as he thought that the security forces and intelligence officials were closing in on him.

The position outlined above of the period Zaharan was in hiding forms part of the evidence before the COI obtained through oral and documentary evidence and includes intelligence from intelligence agencies.

President Secretary's Copy

Chapter 9

Mawanella to Wanathawilluwa

In late December 2018, there was a series of incidents in Mawanella and other areas where Buddha statues were damaged. This led to a rise in religious tensions in the area.

The order to break Buddha statues was given by Zaharan to Sadeek and Shahid as retaliation for violence directed at Muslims in Sri Lanka by the Sinhalese.

It began on 23rd December 2018, when the Buddha statue at Randiwela junction within the Grama Niladhari area of No. 24, Randiwela was damaged. The face of the Buddha statue was mutilated. There were no eye witnesses. The residents of the area are entirely Sinhalese except for two Tamil women married to Sinhalese. However, a mixture of Muslims and Sinhalese people reside in the village bordering the area. On the same day, another Buddha statue was damaged at Miriskudu junction around 7 km away from Randiwela site.

Another Buddha statue at Hingula was damaged by unidentified persons on 26th December 2018. It is situated opposite the bus terminal for Kandy, facing the Colombo-Kandy main road. It was damaged at the head and the arm. 486 Sinhalese families, 242 Muslim families and Tamil families resided in the area as per the statistics of 2018.

On the same day between 4.30 a.m. and 4.45 a.m., the Buddha statue in Didulawatte, Galawidaputhena, Mawanella was damaged. It was situated within the Grama Niladhari division of No. 26/A, Warakapane. There were no Muslims residing in this area. However unlike the earlier occasions one of the perpetrators was caught by two vigilant villagers.

Senarath Bandara, a trishaw driver, lived close to the damaged Buddha statue. The key of the shrine room lock which housed the Buddha statue was hung along with his trishaw key. On days he returned home during the night, he made it a point to clean away any stale offerings to the statue. In case he had an early morning hire, he was careful to keep the shrine room unlocked on the previous night since he had locked it on one occasion and the villager were inconvenienced by their inability to make offerings on that day.

25th December 2018 was a day which he left the shrine room unlocked since he had an early morning hire the following day. On 25th December 2018, the Buddha statue was intact when the witness visited it. Since he had to go on an early morning hire the next day, he has set two alarms for 3.30 a.m. and 3.40 a.m. When he woke up from bed for the second alarm (i.e. the one which was set to ring at 3.40 a.m., he had heard a noise from the direction of the Buddha statue, which was about 30 meters to 40 meters away from his home.

Although the lights of the shrine room were turned off since the full moon poya day had fallen on 22nd December 2018, there was sufficient moonlight for Senarath Bandara to notice a man causing damage to the Buddha statue.

He ran towards the shrine room, where he noticed a motorcycle with another man waiting on it. The perpetrator had got onto the motorcycle which had proceeded down the village road. He then called out to Chanaka Jayarathne with the intention of using his motorcycle to follow the perpetrators when he noticed the motorcycle returning.

With the assistance of some villagers who came to their assistance, they were able to capture one of the persons, Ashfaq, involved in the breaking of the Buddha statue. The captured suspect was taken to the Police Station, Kegalle.

As things unfolded, this arrest by two public spirited citizens dented the plans of the group and eventually led to the recovery of explosives and arms at Wanathavilluwa. The COI is of the view that if not for this discovery, the damage and destruction would have been greater. The COI recommends that the two private citizens Senarath Bandara and Chanaka Jayarathne be recognized as national heroes for their bravery.

The main role in the Mawanella incident was played by Mohammad Ibrahim Sadeeq Abdulla aka Abu Umar. Incidentally, an intelligence operative had approached the Grama Niladhari of the area around November 2018 requesting for information on Sadeeq, and to find out as to whether he was involved in any illegal organization. They had subsequently visited and gathered information on Sadeeq and his family on several occasions, which were before the breaking of Buddha statues in Mawanella in December 2018. The Grama Niladhari had subsequently paid a visit to Sadique's house since she was told to be vigilant about them by the intelligence operative.

It was observed that Sadeeq's house was partially built on the same land of his father's house. A small farm of hens was conducted within the same premises. Furthermore, the Grama Niladhari had doubts on how Sadeeq earned a living since the chicken farm at home did not appear to suffice to a family's expenditure. Sadeeq had however replied that he did a farm in Mawanella in partnership with another.

According to Sadeeq, it was Zaharan who ordered to destroy Buddha statues. He had provided motivation for such destructive acts by showing photographs of a protest conducted by Bodu Bala Sena in Kuliyapitiya, where placards bearing the picture of a pig named "Allah" were displayed by protestors. This

version is credible given that there is evidence of Zaharan providing Rs. 500,000/= to the wife of Mufeez to obtain bail for the suspects arrested in relation to the Mawanella incidents. The money was given to Zaharan by Ilham.

According to Zaharan's instructions, Sadeeq and his brother, Sajid, had set out on 23rd December 2018 in their motorcycle numbered SG BO – 1117 and damaged the head of the Buddha statue at Hingula. A second Buddha statue along the Rambukkana road was damaged on 24th December 2018 by Sadeeq. He had not broken any statues on Christmas day of 2018, which had displeased Zaharan who had stressed upon the witness to continue destruction on a larger scale. Accordingly, on 26th December 2018, Sadeeq had organized four of his friends, whom he knew from the SLIISM days, to set out for the destruction of Buddha statues.

When Sadeeq informed Zaharan about the incident, he had advised him to leave his place of abode immediately and travel to Kurunegala. Once in Kurunegala, Zaharan had directed Sadeeq to Bammanna area and then to a house. The house owner had allowed Sadeeq, his wife and son to stay the first night. However, the house-owner had become suspicious when media reports of the Mawanella incident circulated. Sadeeq then informed Zaharan who instructed him to move with his family to Kuliyapitiya where Zaharan himself was present. There Zaharan had taken possession of Sadeeq's mobile phones, (including the mobile with "Threema" app installed), along with the key and documents of Sadeeq's three wheeler. Sadeeq and his family were then directed to the house in Negombo (which Zaharan had rented for purposes of treating Rilwan). Azath (bomber at Zion Church, Batticaloa) and Rilwan had

been present in the house. Sadeeq remained in the Negombo house until explosives were discovered in Wanathawilluwa on 16th January 2019.

Zaharan had wanted Sadeeq to search for a land to conduct training. In the meantime, Sadeeq and Milhan were also planning to commence a goat farm. In order to satisfy both needs, Sadeeq had spoken to Mufeez (whom he knew from his days in the SLISM) whom he knew to possess a land in Wanathawilluwa. Mufeez had consented to provide a separate area from his land (about 10 acres in extent). A fence was partially constructed in the separate extent of land. Zaharan named the place Abu Surei in memory of Nilam who died in Syria.

The discovery of the land at Wanathawilluwa where explosives and arms was stored, which was intended to be used as a training camp as well, was a major breakthrough made by the CID as part of the investigations into the Mawanella incident and the investigators must be commended for the effort. The discovery was made when they were looking for Sadeeq and Shahid and the investigations revealed that they were in Puttalam.

By about the 23rd of January 2019, Zaharan's name was revealed in connection with Wanathawilluwa recovery of explosive and arms. According to the evidence of Sadeeq, Zaharan had expedited his plans for a suicide attack after the discovery of explosives in Wanathawilluwa.

However, the COI observes that ASP Kamal Perera, Personal Assistant to SP Division, Kegalle who was designated as the Investigation Officer in charge of the Mawanella incident sent a letter dated 28th December 2018 to SSP Shani Abeysekera, Director CID requesting for information from the Interpol with regard to whether or not the group behind the incident have international connections. However, a reply to was sent by SSP Shani Abeysekera, Director

CID by letter dated 29th of January 2019 stating that it is not possible to seek assistance from the Interpol when there is no information on the conspiracy, which country it is planned and how it is been done.

The position taken by the Director CID is untenable since by 25th January 2019, SDIG Nilantha Jayawardena, Director SIS had informed SDIG Ravi Seneviratne, SDIG, CID that Zaharan was an extremist preacher who was propagating the IS ideology and motivating youth to launch an IS style attack in Sri Lanka. It was further informed that foreign intelligence agencies had informed that Zaharan was having connections with foreign extremists.

It appears that SSP Shani Abeysekera, Director CID did not consider that there could be some international assistance for the group involved in the acts at Mawanella since no attempt was made to explore that angle even though the investigative plan prepared by the investigating officer sent to him on 8th February 2019 recommended that course of action.

The evidence also indicates that the CID did not give top priority for this investigation. The Investigating Officer testified that his section was doing about 400 investigations during this period with only 22 officers. It appears that only five officers including the chief investigator were assigned for this investigation when the total strength of the CID was over 700 officers.

The evidence is that Mohamad Razik Mohamad Thasleen, who was functioning as a co-ordinating Secretary to Minister Kabir Hashim, was with the CID team acting as a translator when the discovery was made. Around 9th March 2019, he was shot in the head whilst sleeping in his house. The order to kill Thasleen was He is presently bed ridden as a result of the injuries sustained and needs

further treatment in the UK. The COI recommends that the Government bears the expenses of his medical treatment.

The CID investigators found out that the Wanathawilluwa site was part of a massive plan to convert Sri Lanka to an Islamic State. As one suspect put it, "ඒකට ලේ විලක් කරනවා" (One blood bath). The plan appears to have been to launch a major attack in 2020. However as explained in detail later in chapter .... the discovery of the Wanathawilluwa site by the CID combined with subsequent events led Zaharan to expedite the attack.

Amongst the items recovered from the site were, six cans of Nitric acid (35 kg each), Urea, 110 kg of Potassium Nitrate, 99 detonators, several LED bulbs, tents, local guns and other equipment required for a guerilla war. The explosives were freshly buried. On the 17th of January 2019, officers of the SIS and DMI visited the scene. According to investigations the detonators were non-electric made in India and purchased locally. These types of detonators are used in metal quarries.

One of the suspects Mufeez had a note in his wallet written in English explaining how to make bombs. According to Hadiya, Zaharan's group obtained information of making bombs through the Dabiq magazine of the IS.

Rashid Mohomad Ibrahim, father of Sadeeq and Shahid, was arrested on 22nd January 2019, kept under detention orders and produced in court on 25th January 2019. A search of his house resulted in the discovery of around 390 CDs, an air rifle and certain documents. It contained a solitary room built on the second story of the house which had served as a recording room since a green backdrop, a video camera, lighting and other equipment required for recording and broadcasting were found. It appears to have been used by Zaharan for some of his videos.

Although the evidence indicates that all four persons found at the land at Wanathawilluwa were arrested and detained; the COI was told that two of the detainees had been speedily released on an Order of Restriction made under section 11(1) of the Prevention of Terrorism Act.

CI Marasinghe, the Chief Investigating Officer testified that members of the Human Rights Commission had visited the CID and informed that two detainees were school children, thus requesting for an expeditious investigation to determine their culpability. However, the COI was not given the date of their visit nor any entries made about the visit. It was further informed that the investigators were told by the Senior DIG and Director of CID to complete investigations against the two school children early and report to them. Accordingly, the investigator had prepared a report which was submitted to his superiors, stating that no material was found against two of the detainees arrested at Wanathawilluwa (i.e. the brothers-in-law of Mufeez). Their names are Mohomad Nafeez Mohomad Nafrith and Mohomad Nafeez Mohomad Navith.

This position was put to SSP Shani Abeysekera, former Director of the CID who denied having knowledge of any visit of representatives of the Human Rights Commission to the CID on this matter.

However, the B reports filed in Court reflect that only Navith was of school attending age. Both of them were released by order of then Minister of Defense, H.E. the President Mr. Maithripala Sirisena which was signed on 09th April 2019 under three months of their arrest. When questioned by the COI, the then President Mr. Maithripala Sirisena took the stand that the officers who submitted that document for his signature must take responsibility for it.

Evidence led before the COI indicates that an air gun was found in a small hut which was used by one the suspects released on an Order of Restriction. It was discovered by the STF officers who were assisting the CID in the search. The COI was informed by the investigator from the CID that this matter was not brought to his attention by the STF as the search was conducted in the late night.

In these circumstances, the COI recommends that a detailed investigation into the involvement of Mohomad Nafeez Mohomad Nafrith and Mohomad Nafeez Mohomad Navith with Zaharan and his group is commenced immediately. As part of it, investigations must be made of their involvement with other thowheed groups including the SLIISM.

This recommendation is made also in view of the involvement of Former Governor of the Western Province Azath Salley in the investigations into the Mawanella incident as well as the release of two suspects arrested at Wanathawilluwa.

Azath Salley did admit that he got involved in making representations for the release of the two suspects Mohomad Nafeez Mohomad Nafrith and Mohomad Nafeez Mohomad Navith. According to him, former President of Muslim Council, N.M. Ameen had spoken to him on the matter. A meeting had taken place with the Secretary Defence on 23rd January 2019 and when the question was put forth to Director CID Shani Abeysekara, he had said "ඒ ගැන දැන් කථා කරන්න එපා, විමර්ෂණය කරලා අවසන් වෙන්න ඕන" (Do not speak about that just now. The investigations must be completed). However, as set out above, the investigations into the involvement of the said two suspects were expedited and Order of Restriction made by H.E. the President on 9th April 2019.

In so far as his involvement in the investigations into the Mawanella incident is concerned, it was Azath Salley's position that he received several telephone calls about the incident at Mawanella although he was unable to specify the dates. He had immediately contacted the President of the ACJU Rizwi Mufthi and the Head of the Muslim Council N.M. Ameen stressing on the necessity to meet and discuss about the matter in order to prevent its repetition. The Head of the ACJU had informed Azath Salley that one Mohammad Salley Mohammad Thasim (Thassim Mowlavi), Assistant Secretary of the ACJU and Director Seylan Muslim Youth Organization, was deployed to handle the situation and to gain further information from him. Thassim Mowlavi was a cousin of Abdul Latheef, father of Abdul Latheef Jameel Mohammad, who died at Tropical Inn Dehiwela on 21st April 2019.

Later when Azath Salley called Thassim Mowlavi and enquired about the situation, the latter had replied that some incident had occurred in Mawanella, (the nature of the incident was unknown to Thassim Mowlavi at the time according to Azath Salley) of which one suspect was arrested and that he was on the way to Mawanella in order to check the situation.

Azath Salley could not recall the date when he first called Thassim Mowlavi. However, he stated that Thassim Mowlavi had gathered information from the mosque in the area and given it to Azath Salley, who had immediately called IGP Pujith Jayasundara and Hemasiri Fernando, Defense Secretary at the time and requested for a meeting, which was granted. Other participants to the meeting were Director, TID, Director, CID Shani Abeyasekara and CNI Sisira Mendis.

The meeting was held at the office of the Defense Secretary, probably around the 3rd of January 2019. The IGP had briefed the gathering about the material discovered by investigations conducted thus far while Thassim Mowlavi had

stated that the father of the two hidden suspects had released a voice recording on WhatsApp entreating his sons to surrender to the police. Thassim Mowlavi had also stated that he could coordinate with the mosque and bring forth the father, to which representatives of Sri Lanka Police had stated that it was unnecessary. Meanwhile, the IGP had called ASP Gamini Thennakoon and given the latter the mobile number of Azath Salley, and shared ASP Gamini Thennakoon's telephone number with the witness to call if the need arises.

Azath Salley stated that the reason for IGP to give his telephone number to ASP Gamini Thennakoon rather than the telephone number of Thassim Mowlavi was that he was a person who could contact ACJU and the Muslim Council if required, and since he was recognized as a person who took the initiative in many instances. He denied ASP Gamini Thennakoon's position that he had conveyed through the IGP his hopes of surrendering suspects wanted in connection to Mawanella by way of Thassim Mowlavi.

However, according to the evidence before the COI, Azath Salley called the IGP on 29th December 2018 before the meeting at the Ministry of Defence on 3rd January 2019. It was the evidence of the IGP that he was informed that Azath Salley could coordinate the surrender the two suspects (brothers) of the Mawanella incident through the involvement of another person, most probably Thassim moulavi. Azath Salley who was provided with an opportunity of questioning the IGP did not contest this position. This position is corroborated by the evidence of ASP Gamini Tennakoon who testified that as instructed by the IGP, he called Azath Salley who informed him that Thassim moulavi will bring the two brothers, main suspects of the Mawanella incident, and surrender them during the day.

The evidence before the COI is that such a surrender of the suspects did not take place as promised by Azath Salley. On 31st December 2018, at a meeting

held at the DIG office, ASP Gamini Tennakoon called Azath Salley on the instructions of DIG Palitha Siriwardena and inquired as to why the surrender had not taken place. The conversation was:

ASP Thennakoon: අසාද් සාලි මහතා අර ඉදිරිපත් කරනවා කිව්ව Accused ලා ඉදිරිපත් කළේ නැනේ

Azath Salley : ආ... නාම ඉදිරිපත් කළේ නැද්ද? පොඩ්ඩක් ඉන්නකෝ

Salley showed surprise that the surrender had not taken place and then tried to contact another person while keeping this call on conference mode. ASP Gamini Tennakoon then disconnected the call.

In examining the conduct of Azath Salley in intervening in the attempted surrender of the two suspects in the Mawanella incident, it is pertinent to note that he had called the Officer-in-Charge, Police Station, Dummalasooriya twice on 26th December 2018 on which day, three suspects regarding the Mawanella incident were arrested by the Dummalasooriya Police namely Mohomad Ansardeen Mohomad Ilmi, Mohomad Mansur Mohomad Sonasdeen and Mohomad Ameer Mohomadu Aayaththullah. Azath Salley could not remember making a call to OIC, Police Station, Dummalasooriya although he previously accepted that he might have called to make inquiries about the incident.

The evidence of the then OIC of Police Station, Dummalasooriya was that he had received a call from Azath Salley on 26th December 2018 at 11.06 am. The telephone call had lasted for 13 seconds, Azath Salley had enquired about the incident in this call, to which the witness had replied, describing the incident in brief. He had received a second telephone call from Mr. Azath Salley on his official mobile number 0718591272 on 26th December 2018 at 11.07 am which had lasted 83 seconds. Azath Salley had reiterated his enquiries into the incident and questioned about the nature of investigations being held by the

Police. The witness had described the nature of the investigations and stated the measures were taken to identify the suspects behind the incident. The witness stated that he understood Azath Salley's interest in the investigations as an inducement to the Police to expedite the investigations.

However there is other evidence that some Police officers construed the intervention by Azath salley as an effort to get to know the actions taken by Police by calling them and seeking information.

The COI heard evidence of an episode of the program මාද්‍ද සිටිය on 23rd April 2019. The participants were then Member of Parliament Wimal Weerawansa and Azath Salley, in order to discuss the political reactions to Easter Sunday attacks.

The program contained the following excerpts:

a. 49th minute, 21st second – Azath Salley states that a Moulavi and another individual had initiated a conference call and discussed the manner in which two suspects in relation to Mawanella could be handed over to the Police.
b. 49th minute, 39th second – Azath Salley stats that Thassim Mowlavi of ACJU was sent to Gampola to meet the father of the suspects wanted in relation to Mawanella incidents.
c. 50th minute, 40th second – Azath Salley states that he called the IGP and the Secretary of Defence and informed them that he had called the father of the suspects, who had in turn said that he provided a statement to the Police Station, Mawanella and was ready to make a request for his sons to be handed over to Police.

d. 51st minute, 11th second – Azath Salley states that a youth who came to see the incident from the neighbouring land in Puttalam had been arrested along with another youth who brought his food.
e. 51st minute, 24th second – He further mentioned that he discussed the matter relating to the two youths with SSP Shani Abeysekara and the Secretary of Defence.
f. 51st minute, 30th second – SSP Shani Abeysekara had replied that no enquiries should be made until investigations were concluded.
g. 51st minute, 37th second – Azath Salley referred to the owner of the land and the individual who brought him food as "innocent".
h. 51st minute, 47th second – Azath Salley states that two suspects were released by court.
i. 53rd minute, 37th second – In response to the question by the interviewer as to whether he interfered in securing the release of two suspects, Azath Salley had said that two absconding suspects of Mawanella and two suspects released in relation to Wanathawilluwa land did not turn out to be suicide bombers.
j. 01st hour, 02nd minute, 14th second – Azath Salley stated that the father was not a terrorist, but was arrested for the wrongdoing of his sons.
k. 01st hour, 15th minute, 35th second – Azath Salley mentioned that he had called IGP and informed the possibility of bringing forth the father of the suspects to ASP Thennakoon to record a statement.

It is the view of the COI that Azath Salley, being a politician, should not have intervened in the situations referred to above as it hampers independent investigations by the Police. Such interventions by politicians must be discouraged by criminalizing such actions. Such a course of action is also fortified due to the intervention made by Minister Rishard Bathiudeen with

Army Commander General Mahesh Senanayake in relation to the arrest of Ihshan Meunideen.

The COI recommends the introduction of a penal offence criminalizing any intervention by a Member of Parliament, Provincial Council or a local authority into police investigations and about terrorist suspects who are in custody or detention.

The position outlined above of events between the Mawanella and Wanathawilluwa incidents forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators.

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Chapter 10

Training Camps and Safe Houses

Zaharan and his group conducted training camps and seminars at several places in the country. One of the witnesses explained how Zaharan attracted youth towards his lectures and training sessions. They are encouraged to attend his lectures which are propagated to be free. Meals are provided free-of-charge. During the lecture sessions, videos of IS activities are shown to the participants along with weapons. Zaharan later threatens them stating that if any participant informs any other party about what was discussed during his lectures, such person would be subjected to the same process which the IS used in the videos to deal with traitors.

At each of the training camps, Zaharan divided the group into two. One group consisted of persons who agreed to act as suicide bombers while the other group comprised of persons who were willing to fight with weapons. Each of the participants were given names beginning with *Abu* symbolic of the IS practice. Significantly majority of the participants were members of the SLJI.

The first training camp was held in November 2017 at Thoppur and the last was held on 14th to 18th December 2018 at Hingula. The contents of the training camps were mainly extremist Islamic sermons, talks on the IS, theoretical training in the use of weapons such as T-56 gun, pistol and knife, use of explosives and the making of bombs. Although the resource personnel changed from time to time, Zaharan was the main preacher on Islamic extremism, Naufer spoke of the IS, Milhan conducted practical demonstrations on the loading and unloading of a T-56 gun, pistol and knife whilst Hasthun and Rilwan gave demonstrations on the use of explosives and the making of bombs. Sometimes, youtube videos were shown to demonstrate the

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functionality of the T-56 weapon. An average of 20 to 30 persons took part in these training camps and seminars. Sometimes the same place was used for more than one camp.

Details of the training camps and seminars are set out below:

1. Training camp at Rambewa, Medawachchiya in November, 2017. Training camp at Rambewa, Medawachchiya in November, 2017. Around 14 persons including Zaharan, Naufer, Anzar, Rizvi, Risvan, Abdeen, Ramiz, Milhan, Kasthun and Rilwan took part in this camp. It was held at the house of Abdul Latheef Mohommed Shafi. The group was led by Zaharan who had got to know Shafi when he was living in Kattankuddy. The group had arrived in a van. Zaharan had arrived around 3 a.m. on the particular day and the group had been at a discussion from that time onwards. The group had then proceeded to a secluded area close to the house and given a pledge to the IS flag using a T-56 weapon. They left on the same day around 12 noon.

2. Training camp at Thoppur, Nallur, Muttur in November or December 2017. This was conducted by Sadeek and attended by about 6 people. So far there is no evidence of Zaharan having taken part at this training camp. Sadeek had given a practical demonstration of removing and loading of the T-56 weapon. The house used for the training belongs to Haja Mohideen a friend of Sadeek. It was a one day camp.

3. Seminar at Panda Multi Sports Arena, Malwana on 16th December 2017. The reservation of the place was made through Abdul Cader

Mohommed Shasni, a member of the JMI, who knew the owner of the place Ranganath Tillekeratne. The reservation was done for one and a half hour. Around 15 people had taken part. They came around 7 p.m. The group sat in a half circle and conducted a meeting. Zaharan acted as the leader of the group.

It was arranged to resolve a dispute that had arisen within the JMI between Jameel and Umayar Mohammad, leader of the JMI. Jameel was not happy that Umayar Mohammad was appointed as the leader of the JMI and there were disputes between the two. Naufer and Milhan took part in the meeting. The JMI members took an oath to end disputes amongst them and not to create again in the future. The participants also agreed to accept the IS.

Out of the individuals who died on 21st and 26th April 2019, Zaharan, Ilham Ahamed, Mohammed Hasthun, Ahmed Muath and Jameel Mohamed attended.

4. Training camp at Enrich Bungalow at No. 147/7/A, Dharmasoka Mawatha, Lewella from 23rd to 25th March 2018. The owner of the place is Nalini Menike Gunaratne of 147/9 Dharmasoka Mawatha, Lewella. It was rented out to Dinupa Nuwan Perera who maintained a guest house. The booking was made through Thushan Felix De Silva who used to book hotels and guesthouses and recover commissions. The initial enquiry for the accommodation was made from Thushan Felix De Silva by Meera Saibi Mohammed Nafli.

Around 25 people had taken part and it was led by Zaharan. The group had come in about three vans. The contents of the training camp were

extremist Islamic sermons by Zaharan and weapons training by Milhan. On the first day lectures were on Islamic extremism, the IS and its activities by Zaharan and Naufer respectively and on the second day Milhan aka Abu Sila gave training on loading and unloading a T-56 with the help of two T 56 weapons. He also explained how to take aim with a T-56 and how to fill the magazine of a T-56 with ammunition. Amongst the participants were Pashan, Ahkam, Ihshan, Inshaf, Jameel, Umayar, Abu Hytham, Muath, Naufer, Milhan, Hasthun, Gaffor and Riskhan. Hasthun explained how to use a VPN for the mobile so as to evade security forces and advised the participants to obtain sim cards which will not reveal one's identity. He also explained how to protect the identity in computers and mobile phones.

Out of the individuals who died on 21st and 26th April 2019, Zaharan, Hasthun, Jameel, Rilwan, Muath and Shaini participated.

5. Three training camps at Thaxila Holiday Resort, No. 56/1, Temple Road, Shanthipura. The caretaker of the resort was one Ranga Indika Weerasinghe of 57, Temple Road, Shanthipura, who was living next to the holiday resort, and it was owned by Thaxila Indika Kumara from Kelaniya. Training camps were held on three occasions and was led by Zaharan. Hayathu Mohommed Ahamed Milhan gave lectures on the use of T56 and pistol by giving practical demonstration of removing the weapons and re-fixing it. Mohommed Hasthun gave lectures on the making of bombs. Extremist lectures were given by Zaharan and Naufer. The group used two vans. Some had arrived in Nuwara Eliya by public transport and arrived at the venue in the vans. The time periods are:

a. 30th March 2018 to 1st April 2018 where around 15 to 20 persons took part.
b. 4th May 2018 to 6th May 2018 where around 30 to 35 persons took part.
c. 7th May 2018 to 8th May 2018 which was to be held until 10th May, 2018 where between 25 to 30 persons took part.

Out of the individuals who died on 21st and 26th April 2019, Zaharan, Shaini, Hasthun and Rilwan took part in all three training sessions.

6. Training camps at No. 67/4/1, Near Shimila Bakery, Sippikulama, Hambanthota. The place is owned by Seyyadu Mohammadu Paufas Moulana who is working in Qatar. It was managed by one Seyyadu Masoor Moulana.

The training camps were held from 7th to 8th July 2018, 20th to 22nd July 2018, 26th to 28th August 2018, 3rd to 4th November 2018 and 1st to 2nd December 2018.

Around 20 to 25 persons took part in the training camp held from 7th to 8th July 2018. It was led by Zaharan. Some of the group arrived in a van and some others came to Hambanthota town by public transport and were picked up in the van. Out of the dead, Zaharan and Rilwan took part in this training program. Weapons training using a T56 weapon were given by Milhan. Training in preparing bombs was given by Rilwan. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS.

Around 25 to 30 people took part in the next training camp at these premises from 20th to 22nd July 2018. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Hayathu Mohammadu

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Ahamadu Milhan had given training in the use of T56, pistol and knife whilst Rilwan gave lectures in preparing bombs. Out of the dead, Zaharan, Hasthun and Ilham Ahamed took part.

Around 30 to 40 people took part in the next training program from 26th to 28th August 2018. There were two vans. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Hayathu Mohammadu Ahamadu Milhan had given training in the use of T56, pistol and knife whilst Hajji Mohammad Mohammadu Hasthun had given training in the use of explosives. Out of the individuals who died on 21st and 26th April 2019, Zaharan, Shaini, Hasthun, Muath took part. In addition Sadeek and Shahid took part.

Around 25 to 30 people had taken part in the training camp held from 3rd to 4th November 2018. Zaharan gave extremist lectures on Islam whilst Naufer gave lectures on the IS. Hayathu Mohammadu Ahamadu Milhan had given training in the use of T56, pistol and knife whilst Hajji Mohammad Mohammadu Hasthun had given training in the use of explosives. Out of the dead Zaharan and Hasthun took part. Shahid also took part.

Around 25 to 30 persons took part in the next training program held from 1st to 2nd December 2018. At this training program Zaharan gave lectures on Islam extremism, Naufer on the IS as well as the incidents in Kandy, Digana and Beruwela. Shaini gave lectures on jihad. Hayathu Mohammadu Ahamadu Milhan had given training in the use of T56, pistol and knife whilst Hajji Mohammad Mohammadu Hasthun had given training in the use of explosives. Out of the dead Zaharan, Rilwan, Shaini and Hasthun took part.

Out of the individuals who died on 21st and 26th April 2019, Zaharan, Rilwan, Shaini and Hasthun were present on all four occasions.

7. Training camp at Blue Eye Inn, 181/01 Blackpool, Nuwara Eliya. This was advertised in Ikman.lk as a guest house and was owned by Nita Kamaneelin Martenstyn whilst the guest house is run by Sunil Kularatne from Gampola. Training camps held from 6th to 7th October 2018 and 16th to 18th November 2018. Around 20 to 25 persons took part in the training from 6th to 7th October 2018. They came in two vans. Zaharan lectured on Islam extremism, Naufer on the IS, Ilham Ahamed on the use of T56 and pistol. Out of the individuals who died on 21st and 26th April 2019, Zaharan, Ilham and Hasthun took part.

   Around 15 to 25 persons took part in the training from 16th to 18th November 2018. Zaharan lectured on Islam extremism, Naufer on IS, Milhan on the use of T-56 and pistol, Hasthun on the use of knives. Out of the individuals who died on 21st and 26th April 2019, Zaharan and Hasthun took part.

8. Hairiya Masjid Thowheed Mosque at No. 130/B, Delgahagoda, Hingula from 14th to 18th December 2018. Organised by Sadeek and Shahid. For children who were due to sit for the O/L examination. Residential camp for around 30 children from Mawanella, Kadugannawa and Delgoda. Lectures on the IS. Showed a small child being killed by the IS. Also the Digana incident and that if attacked they also should attack.

9. In addition to the above, training camps had been held at Al Zuhriya Arabic School at Karthivu, Vanathavilluwa from early 2015 to 2019. It is a

madrasa registered with the Muslim Religious and Cultural Affairs ministry bearing registration no. MRCA/QM/PT/43. It was begun as a Dhamma school in 1989 and converted into a madrasa in 2011. The training had been given only to the children admitted to the madrasa by the Save the Pearl organization.

From the beginning of 2015 to end 2017, around 26 children had been admitted to this madrasa by the Save the Pearl organization. They are from areas such as Mattakkuliya, Madampe and Puttalam and were mostly from orphaned or single parent households or from socially excluded sections. These children have been given training in T-56 weapon, karate and the making of hand bombs and shown extremist videos and given extremist Islamic lectures. Zaharan, Ilham Ahamed, Pulasthini Mahendran aka Sara Jasmin, Fathima Jiffrey (wife of Ilham Ahamed who blasted at the Dematagoda residence), Naufer, Rilwan and others had taken part.

There is evidence that some female members of the group had been given a three day training in Palamunai, Kattankuddy. The wife of Ilham, Fathima Mohammad Jiffry had given karate training.

In addition to training camps, Zaharan arranged several safe houses where he and his group could stay from time to time to avoid detection.

One of the main houses was at No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura. This appears to be the place where the bombs were assembled. The suicide bombers who targeted the hotels in Colombo left with

the explosive laden back packs to the respective hotels from this place. Amongst the items recovered from the house is a sketch of a circuit.

Another safe house was at 546/7/1, Janapada Mawatha, Daluwakotuwa. It was rented by Abdul Latheef Mohammad Shafi on the instructions of Zaharan. The connection between Shafi and Zaharan go back to the days at Daarul Adhar ad Da'iyyah in Kattankuddy. He has worked for Zaharan as a driver. The first training camp conducted by Zaharan held in Rambewa, Medawachchiya in November, 2017 was held at his house. This house was obtained for Sadeeq and his family and his brother Shahid who were in hiding after the Mawanella incident. The occupants left the house immediately upon the discovery of the Wanathawilluwa explosives and arms.

The safe house at No. 394/A/21, Don David Mawatha, Uluambalama, Katuwapitiya is the place from where Hasthun proceeded to St. Sebastains Church, Katuwapitiya for the attack. This house was advertised for rent on ikman.lk on 26th January 2019. The lease agreement was signed on 4th February 2019 and was entered into by Mubarak and the house was occupied from 16th February 2019.

There were other safe houses at Ninthavur, Sammanthurai, Saindamarudu,Span Towers, Mt. Lavinia, Span Towers, Wellawatta, Malwana, Enderamulla, Kollupitiya, Thiriyaya, Valachchenai, Katupotha, Kuliyapitiya and Hettipola. Some of the details are as follows:

1. No 5/5, 41, Span Towers, Mt. Lavinia.
2. No 9/3, 41, Span Towers, Mt. Lavinia.
3. No 68/5/2, 70, Lucky Plaza, St. Anthony Road, Colombo 03.

4. No 546/7/1, Janapada Mawatha, Daluwakotuwa, Kochchikade.
5. No 394, Rideeweli Road, Kochchikade.
6. No 53, Nasmiya Villa, Paraththa Road, Panadura.
7. No 48, 2nd Cross Road, Nindavur 07.
8. No 185, Jalaldeen Road, Attalachchainei.
9. No 183, 3rd Cross Street, Saindamardu.

The evidence on the training camps forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators and intelligence agencies.

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Chapter 11

Preparations for the Attacks

On 25th March 2019, Muath met Sameer, currently in custody, and informed of a dispute between Zaharan and Naufer and the need to have a discussion. Two days later, on 27th March 2019 Sameer and two others, currently in custody met with Muath and Jameel and travelled to the house at No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura. When they arrived there Zaharan and Hasthun were there.

Zaharan began the discussion by explaining certain events that had taken place previously. There was a management body called Shoora Council of this group which took all the decisions. Nearly thirteen were members of the council including Zaharan and Naufer. At one of the meetings Milhan had pointed out nineteen wrongs of Zaharan and wanted Naufer to be the leader of the group. During meeting it had been proposed to divide equally between the two splinter groups weapons in their custody and not to reveal anything about the groups to the security forces. However Ilham had objected to the proposal and stated that he provided funding for the group due to his respect and loyalty to Zaharan and that if needed, a house one vehicle and one weapon can be provided to Naufer.

Having explained the events that is alleged to have taken place earlier, Zaharan had informed the participants that a suicide attack must be launched as revenge for the killing of Muslims in a mosque in Christchurch, New Zealand and the attacks on the IS in Syria.

Zaharan had explained that Rilwan will be making bombs and that the explosives will expire in 15 days and that it cannot be assured that the

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explosives will function after that period. Therefore the attack will have to be carried out within 15 days of the making of the bombs. Hasthun, Rilwan and Ilham had acquired knowledge in the making of bombs through the internet.

He went on to suggest that the targets must be hotels frequented mostly by foreigners, Catholic churches and casinos and referred in particular to the Negombo area. At this point Muath had proposed that he can blast himself at the St. Anthony's Church, Kochchikade as it is situated close to his house. It had been proposed to use around twenty persons for the attack.

There is some speculation as to why two bombers went to Shangri-La Hotel when only one suicide bomber was used at the other places. There are two reasons. One is possibly due to Zaharan not being able to gather the number of suicide bombers as planned although many recruits had signed up.

Secondly, Zaharan had proposed that the attack should be conducted in three stages. After the first blast, persons fleeing the site should be targeted by a second attack. This is what was witnessed at Shangri-La Hotel where after the first blast by Zaharan, Ilham targeted the fleeing including little children whose screams could be heard on the CCTV footage, probably when they realized that Ilham was another suicide bomber who was going to blast him amidst them. Probably the van parked near St. Anthony's Church, Kochchikade which appears to have failed to detonate at the set time, possibly due to a malfunction of the timer attached to the gas cylinders, is another example of this strategy. The third stage was to set in motion another series of blasts when the injured were being transported to the hospital.

Zaharan did not discuss a date for the attack at the meeting. The participants were told that they will be informed three days prior to the attack. There is

also evidence that later a reconnaissance was done in Nuwara Eliya to identify places patronized by foreigners to launch an attack.

There has been much speculation on whether Zaharan was in fact the actual leader of the group since he died in the attack. Zaharan informed the participants that he will also take part in the suicide attack similar to the suicide attack carried out by the leader of the IS group in Bangladesh.

Zaharan appears to have been referring to Tamim Ahmed Chowdhury, known by his kunya Abu Ibrahim al-Hanif, and the emir of the Islamic State in Bangladesh. He was the mastermind of the July 2016, Dhaka attack at the Gulshan café which resulted in 29 deaths. Zaharan mistakenly believed that Tamim had died in the attack when in fact he did not. Yet the COI has no reason to doubt this part of the testimony of what transpired on 27th March 2019 at No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura.

The meeting ended with a warning from Zaharan to the participants that the contents of the meeting should not be divulged to anyone. He said that the fate that befell on the two Police officers killed in Wawunatiwu and Thasleen, a co-ordinating Secretary to Minister Kabir Hashim, who was shot in the head for alleged complicity with the CID in the discovery of the Wanathavilluwa arms cache for anyone who fails to adhere to the warning.

Whether there was in fact a dispute between Naufer and Zaharan which led to the splinter of the group or whether it is a version created to mislead the investigators is a matter that must be fully investigated by the investigators. The COI makes no findings on it.

However, the statement said to have been made by Zaharan on 27th March 2019 about the need to launch a suicide attack appears to the COI to reflect

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the true state of events upon a consideration of several incidents that preceded it.

After fleeing Kattankuddy in the aftermath of the Aliyar junction incident, Zaharan kept his wife and children mainly at Kekunagolla, and at Kattankuddy with his parents while he was on the run. He was hiding in areas like Palavi, Oluvil, Puttalam, Mawanella, Ampara and Malwana with friends and supporters. From time to time he visited them at Kattankuddy and Kekunagolla in the night and stayed for about two days at a time. Sara also stayed with them.

In early 2018, a TID officer came to Kekunagolla and made inquiries about Zaharan. Nothing further appears to have happened thereafter. However, on 19th February 2019 around six CID officers came to Kekunagolla. The brother of Hadiya, Ansar was with them. He had been arrested in connection with the investigation made into the recovery of explosives at Wanathawilluwa. In particular his involvement with the van used to transport the explosives had been unearthed by the investigators. They questioned Hadiya and recorded a statement.

On being informed of this development, Zaharan made arrangements to remove his family and Sara from Kekunagolla. Hasthun, Ilham, Riskhan and several others took part in this operation. On the way, the phone used by Hadiya was destroyed and thrown away after removing its IMEI number. The group was picked up half way by Ilham in his car.

Again on the 28th of February 2019, seven TID officers went to Kekunugolla in search of Zaharan. By 9th July 2018, the TID had obtained an open warrant against Zaharan in M.C. Colombo Case No. B 92358/8/18. There they came

across a brother-in-law of Zaharan and began making inquiries when they received a call from Seargeant Dias of the CID requesting them to withdraw as the CID was already conducting an investigation into him. After speaking to the ASP and Acting Director TID the team had withdrawn.

Around early March 2019, the SIS had information that Rilwan was motivating youth in Batticaloa, Ampara and Trincomalee districts to launch a IS style attack in Sri Lanka. During March 2019, Rilwan purchased 8 barrels of Nitric Acid each weighing 35 kilos from Kattankuddy.

On 6th March 2019, Zaharan released a video on his facebook page titled "The Blood of Kafirs and the Economy" and informed his supporters to kill non-Muslims as soon as the Islam holy months are over. He goes on to explain that according to Sura 9:5 in the Qur'an, one must do meritorious acts in the 1st, 7th, 11th and 12th months of Islam and in the other months non-Muslims must be killed on site and non-Muslims who embrace Islam must be allowed to proceed on their journey. He further stated that the Muslims who follow to the letter the teachings in the Qur'an kills non-Muslims during the non-holy months and acquire their property. He concluded by stating that the best option is to establish an Islamic State under the leadership of a Caliph.

On 7th March 2019, SIS operatives showed the hiding places of Army Mohideen and Rilwan to CID officers as well as the place where Shaini was living. The CID officers established contacts with Army Mohideen but did not arrest him although it was within their knowledge that there was a warrant out for him. Instead they sought to keep him as an informant in order to obtain information of Zaharan. Army Mohideen was even given the telephone number of one of

the investigators. It is possible that Army Mohideen may have passed on this information to Zaharan.

The cumulative effect of these events probably made Zaharan realize that the investigators were closing in on him. According to the evidence of Sadeeq, Zaharan had expedited his plans for a suicide attack after the discovery of explosives in Wanathawilluwa.

There were developments in the international front as well which in the view of the COI contributed to the launch of the attack on Easter Sunday.

Around 16th March 2019, after nearly six months of silence, Abu Hassan AL-MUHAJIR, the spokesperson for the IS had emerged with an audio recording, calling for retaliatory attacks, against the mosque attacks in New Zealand. The shooting by a white nationalist extremist on 15th March 2019 resulted in the killing of 49 Muslim worshippers attending prayers at two mosques in Christchurch, New Zealand. The audio said, "The scenes of the massacres in the two mosques should wake up those who were fooled, and should incite the supporters of the caliphate to avenge their religion". Al-Qaeda linked groups also used recorded footages of the attack in social media to incite Muslims to kill non-believers. One of the messages encouraged Muslims to target Australian tourists by stabbing and cutting the crusaders in revenge for the Muslim blood they spilled. Zaharan made specific reference to this incident as one of the reasons to launch the attack in the video made on 20th April 2019.

During the next week, it was apparent that last enclave of IS's caliphate in Eastern Syria's Baghouz village was on the collapse. However according to analysts, its followers were still vowing to murder non-believers across the world, believing that the caliphate will continue to prevail because it has been

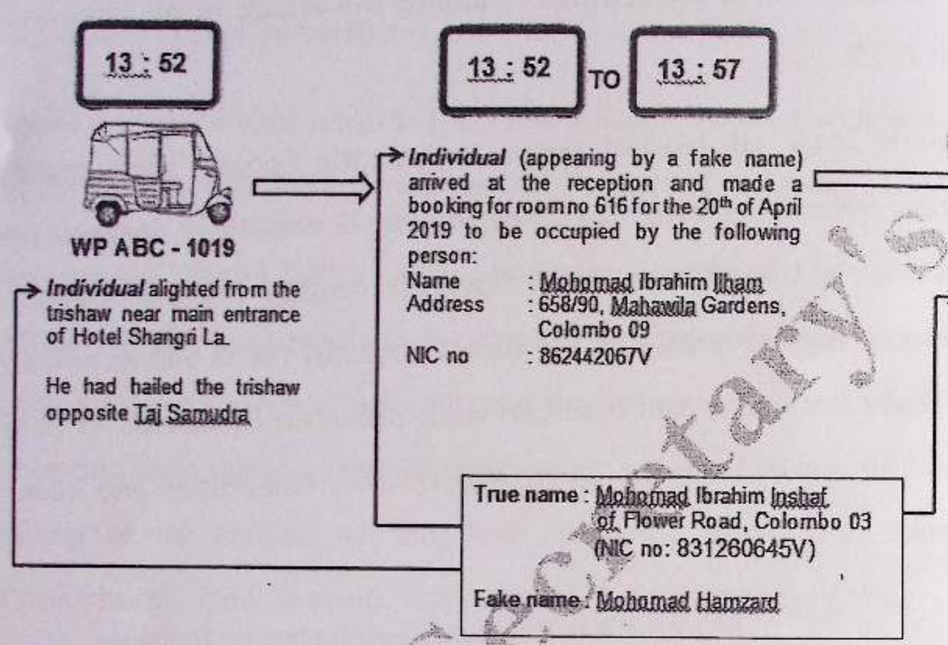
ingrained in the hearts and brains of the youth. In fact, in a new online audio, the IS has called on supporters across the world to stage attacks in defense of the die-hard militants, who are fighting in their last foothold in Eastern Syria. The IS had also urged their brethren in Europe and overseas to rise against the crusaders and revenge for the religion. Zaharan made specific reference to the killings in Baghouz aone of the reasons to launch the attack in the video made on 20th April 2019.

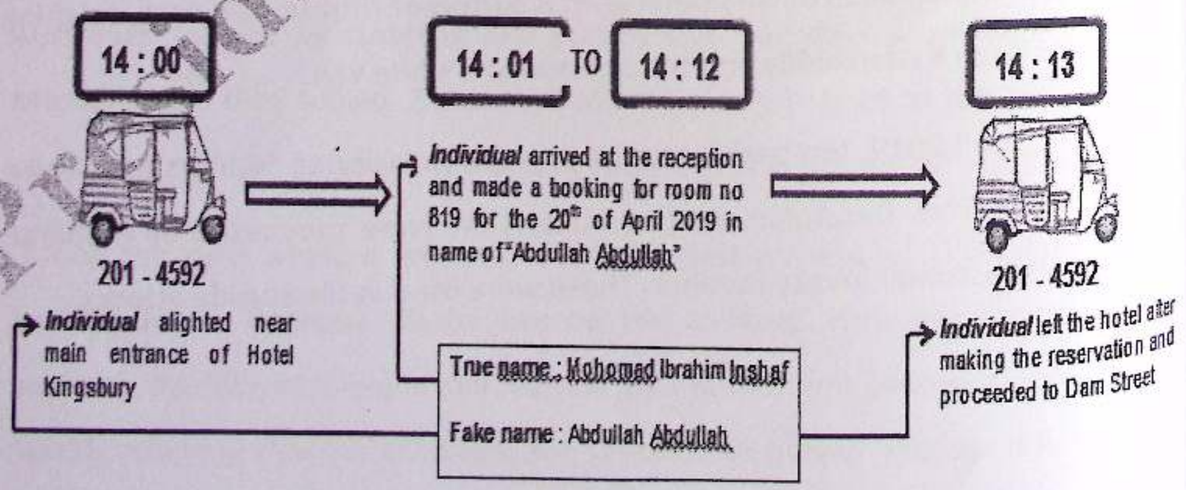
On 23rd March 2019, US backed Syrian Democratic Forces (SDF) declared military victory over the IS, after liberating the last IS enclave in Baghouz near the Iraqi border in the Eastern Syria. However despite the SDF claims of military victory, analysts feared that the threat posed by the IS and its affiliates is far from over, since they still maintain their presence in various locations elsewhere in the world, such as Egypt, Afghanistan, Philippines and several other countries.

Around the 25th or 26th of March 2019, Urea was purchased by Hasthun, Mubarak and Riskhan from Ottamavadi, Valachchenai area after having failed to purchase from Polonnaruwa area. More than 25 kgs of urea had been purchased which was on the same day transported to the Panadura safe house. In March 2019 Rilwan purchased 8 barrels of Nitrate Acid each weighing 35 kilos from Kattankuddy and transported in a white van.

On 11th April 2019, ten back packs having the capacity of 50 liters each were purchased from Decathlon, Battaramulla. They were purchased by Mubarak using his customer loyalty number. These were used in the suicide attacks.

On 17th April 2019, Inshaf conducted reconnaissance of the Cinnamon Grand, Shangri-La, Taj Samudra and Kingsbury hotels. A graphic depiction of the reconnaissance is given below.





On 18th April 2019, eight items of Ruman Amjad, explained by the investigator to be a shawl used by Muslim men, was bought from New Look Al Harmain at No. 176 Grandpass Road, Colombo 14. The purchase was made by Hasthun and Mubarak. On 19th April 2019, a further purchase was made from Decathlon, Battaramulla amounting to Rs. 76,650/=. The items consisted of caps, trousers, shorts, sunglasses, socks, tennis shoes, t-shirts, watches etc.

On 20th April 2019, the eight suicide bombers made around 17 video recordings between 13.17 and 15.32 at Span Tower, Templers Road, Mt. Lavinia. One of the video recordings contained a speech by Zaharan where he gives four reasons for the attack and 10 reasons for it being carried out in Sri Lanka. They were dressed in black and wore the Ruman Amjad that was purchased two days previously (Fig. 1).



Fig. 1

The four reasons given for the attack were:

1. Loving for the sake of Allah and Hating for the sake of Allah (*al-wala' wa-l-bara'*).
2. Revenge for the killing of Muslims in Baghouz in the Islamic State given by God to Muslims by a coalition of 80 countries using bombs made of white phosphorous.
3. Revenge for the killing of innocent Muslims praying in a mosque in Christchurch, New Zealand by a Christian. Catholic countries such as France, USA, Russia, Italy, Netherland, Australia, Canada, Israel and Europe are killing Muslims as entertainment, training groups to commit such acts and providing financial support for it. They are also destroying Mosul in Iraq, Rakkha in Syria and Siripti in Libya. He states that Christian churches are attacked for this reason.
4. People from countries who are killing Muslims in Iraq and Syria, raping women, destroying churches and tearing of the Qur'an, coming to Sri Lanka as tourists and touring as recreation. That is the reason given to target hotels.

Zaharan gives 10 reasons for carrying out the attack in Sri Lanka. They are:

1. Defaming and scolding Allah.
2. A picture of a pig on which Allah was written was carried during a protest in Kuliyapitiya. The pig is a prohibited animal (haram) in Islam.
3. Rev. Gnanasara thero falsely claiming that Allah has a rebirth.
4. Scolding and defaming Prophet Muhammad who is loved more than one self and one's family.
5. Tearing and burning of Qur'an which is loved more than one's life.
6. Destruction of Muslim mosques.

7. Destruction of the economy and houses of Muslims and forcible takeover of their lands on false charges.
8. Rape of a Muslim lady by intelligence officials on the pretext of an investigation and its cover up.
9. Sri Lanka becoming a partner in the international crusade in Western Africa.
10. Allah has ordered the killing of unbelievers of Islam on sight.

Zaharan makes reference to the Digana and Beruwela incidents targeting Muslims.

He also stated that they are sacrificing their lives on behalf of Allah (meaning *Istishhad* which is the Arabic word for "martyrdom", "death of a martyr", or "heroic death") and that through the suicide attack there will be a growth of the IS in Sri Lanka.

He went on to state that the seeds of an Islamic State will be planted through the flesh, blood and bones of the suicide bombers and that the attack should be used to win India and that the Muslims in India should launch a similar attack against their enemies.

In one of the videos the group gives a bayyath where they pledge allegiance to the IS and its leader Abu Bakr Al Bagdhadi. Zaharan refers to Al Bagdhadi as Al Qureshi implying that he is from the same tribe as Prophet Mohammad and is a suitable leader for the Islamic State.

The evidence of the preparation for the attacks forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators and intelligence agencies.

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Chapter 12

Missed Opportunities

Prior to the Easter attack on 21st April 2019, there were certain incidents where Zaharan and his group could have been apprehended by the law enforcement authorities had they been more vigilant and preventive. However due to critical omissions and negligence on the part of the law enforcement authorities as well as two civilians, the group evaded capture. The following are details of the lost opportunities which could have prevented the catastrophic loss of life and damage to property.

1. Speech by Hon. Wijedasa Rajapakse, Minister of Justice

On the 18th of November 2016, Hon. Wijedasa Rajapakse, Minister of Justice made a speech in Parliament during the budget debate wherein he highlighted facts about Sri Lankans with IS connections. He mentioned that 32 Sri Lankans from four families had gone to Syria and joined the IS and that they were educated. He further stated that foreign preachers are coming to Sri Lanka on tourist visas and conducting sermons in areas such as Beruwela, Kaleliya, Kalmunai and Kurunegala and spreading extremism by distorting the minds of the Muslim youth.

He informed the COI that he took this step of openly discussing this matter although he was a Minister since he observed that the Government was not taking this issue seriously. He gave an example of a Security Council meeting held about three months prior to his speech in Parliament which he attended at the invitation of the President. There Nilantha Jayawardena, SIS Director had made a presentation which painted a cozy picture of the security situation in the country but did not make any mention about the threat of Islam

extremism. The Minister was surprised at this given that he had knowledge of the growing Islam extremism through Suresh Salley then Director of Military Intelligence. It is relevant that the then Commander of the Sri Lanka Army Krishantha De Silva testified that when Suresh Salley then Director of Military Intelligence spoke of Islam extremism in Sri Lanka at the NSC meetings, then Prime Minister Ranil Wickremasinghe was not happy and took the position that there was no such development and that at times the Army Commander had to intervene to facilitate the presentation by Salley.

Minister Rajapakse was critiqued by several Muslim Ministers and members of Parliament as well as Muslim leaders for making this speech. Just two years and five months after the speech made by Hon. Wijedasa Rajapakse, Minister of Justice on 18th November 2016, and the Easter attack took place. It was a case of Kill the Messenger.

2. Interview by Prof. Rohan Gunaratna

On 27th November 2017 the Ceylon Today newspaper carried an interview with Prof. Rohan Gunaratna where he states that this is the early period where the IS is becoming active in South Asia and Sri Lanka and that States are slow in responding to the threat. He also states that some of the Sri Lankan IS supporters have returned home with the IS ideology and that the State should implement a program to rehabilitate them. He goes onto warn that several hundred IS networks have been created in Bangladesh, India and Maldives and that the national security is compromised by the Government policy of yahapalanaya without any consideration of these developments.

Despite this warning from an expert, the government did not take any tangible steps to the counter the growing threat to national security from the IS and its supporters.

3. *Training Camp at Enrich Bungalow at No. 147/7, Dharmasoka Mawatha, Lewella*

The training camp at Enrich Bungalow at No. 147/7, Dharmasoka Mawatha, Lewella was held from 23rd to 25th March 2018. The owner of the place is Nalini Menike Gunaratne of 147/9 Dharmasoka Mawatha, Lewella. It was rented out to Dinupa Nuwan Perera who maintained a guest house. One Thushan Felix De Silva used to book hotels and guesthouses and recover commissions. The initial enquiry for the accommodation was made by Meera Saibi Mohammed Nafli. Around 25 persons took part.

The manager of the guest house Dinupa Nuwan Perera became suspicious of the group as the windows had been covered with bed sheets so that from outside no one could see the happenings inside the house. He spoke to Thushan Felix De Silva and suggested that they inform the Police. However Thushan Felix De Silva had dissuaded stating that it will put off customers. Instead both of them went to the premises but the group prevented them from going into the house and met them outside and spoke. Later Dinupa had pretended that he has a pair of shoes to be collected from the house and managed to go into the ground floor of the house. He was followed by one of the participants. Dinupa had not observed anything suspicious at that time.

Zaharan lectured on Islamic extremism and Naufer on the IS. Around 25 people took part. Out of the individuals who died on 21st April 2019, Zaharan, Hasthun, Jameel, Rilwan, Muath and Shaini participated.

4. *Training Camp at Shanthipura, Nuwara Eliya*

Thakshila Holiday Resort is a two-story holiday resort situated at Shanthipura, Nuwara Eliya. It is owned by one Thakshila Indika Kumara and one Ranga acts as the caretaker.

On 3rd April 2018 about four white dolphin vans came to Thakshila Holiday Resort and there were about 20 people in them. They stayed for about two days and left on the 5th of April.

Again on 5th May 2018 the same four vehicles came to Thakshila Holiday Resort. Around 7th May a light blue colour van was also seen. They were dolphin and Lite Ace vehicles. On both occasions only one person was seeing outside attending to the luggage. All were males and dressed up in the jilbab which is an Arabian attire.

Tillekeratne Illesinghe, who was a neighbor and was also a member of the Civil Protection Committee, felt suspicious of the group and went to the house on 8th May in the pretext of picking flowers. Then he heard a conversation in tamil where the transport of weapons and money brought by the group to Kattankuddy was discussed.

He then called 119 but there was no answer. The he called the Police Station, Nuwara Eliya but could not get through. Then he tried calling IGP Pujith

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Jayasundera on the number that the IGP had given in an earlier television interview requesting the public to speak on that number if needed. He was able to speak to the IGP at about 8.14 a.m. for 85 seconds and mentioned that there are some suspicious people in the area. The IGP instructed him to inform SSP Mahinda Dissanayake, SSP Nuwara Eliya and gave his number. Tillekeratne Illesinghe spoke with SSP Mahinda Dissanayake around 8.16 a.m. for 57 seconds and informed of the presence of some suspicious people. Unfortunately he did not inform the IGP, SSP Mahinda Dissanayake or any other Police officer of the conversation he overheard in tamil between the members of the group on weapons and cash.

SSP Dissanayake informed Illesinghe that he will get a call from the Nuwara Eliya Police and to wait at home. After about 30 minutes he got a call from a Police Officer of the Nuwara Eliya Police Station at 8.43 a.m. for 141 seconds who inquired whether he had given some information to SSP Dissanayake and upon confirmation got directions to the house. However, even up to noon the Police did not turn up.

Then Illesinghe called SSP Dissanayake again around 11.50 a.m. and informed that the Police have not turned up. Around 4.30 p.m. a white Police car came to the Thakshila Holiday Resort. The Police team comprised of CI Indrajith, PC 76735 Bandara, PC 1336 Rathnayake and another unidentified officer including the driver. They arrived in Mobile patrol Car No. KB 3680. Police came across a bag with gold and money of around Rs. 10 lakhs. Upon questioning the persons present, it was informed that the gold was for business purposes.

According to the evidence of PC 76735 Bandara, when the team went to the house there were about four people downstairs and around 20 upstairs. They were told that the group had come to propagate Islam. They checked the

National Identity cards of all the members and searched the house but found nothing suspicious.

The version of the Police could not be corroborated since the Police team has not made any entries regarding their visit to the premises.

According to Illesinghe a few minutes before the Police car came, three vehicles left the premises. The people at the house had then left around 7.30 p.m. Only a light green colour van was left. The Police car was there for about 15 minutes. Illesinghe identified Zaharan and Naufer Moulavi as people who were present at Thakshila Holiday Resort in May 2018.

According to Ilesinghe, after the Easter attack on 21st April 2019 OIC of the Nuwara Eliya Police Station Indrajith visited Ilelsinghe and requested him not to make the incident public. He also showed Ilelsinghe a photograph of Zaharan and asks whether he was one of the persons who had come and Illesinghe identified Zaharn. The COI did not have the benefit of examining CI Indrajith in person as he died due to a heart attack about two weeks from the date the Police unit of the COI recorded a statement from him.

According to Hadiya when the Police visited the premises they had even searched a bag where a pistol was hidden but did not find it. The T56 weapon had been hidden by Milhan in the well situated within the premises. The pistol had been hidden in the laptop bag of Zaharan with jewelry. The bag had been checked by the Police who had only taken the jewelry out without finding the pistol. The group did not return the key to the premises on the same day but sometime later.

After the Easter attack, when these facts came to light, disciplinary action had been taken against the officers.

The COI recommends that a system be implemented that hotels, owners of lodges, guest houses and similar establishments be required to keep a record of the full details of the persons who come to occupy the places for a period of three years.

5. *Treatment of Rilwan at National Hospital, Colombo*

In the early hours of 27th August 2018, Rilwan suffered life threatening injuries whilst experimenting with explosives at Palamunai, Kattankuddy. At this time Zaharan was at a training camp at Hambanthota. Zaharan contacted Mohamed Aliyar Marzook Rila who was in Saudi Arabia and sought assistance. He in turn contacted Dr. Muhamad Zufyan Muhamad Zafras and obtained instructions as to treating the injured Rilwan. Zaharan instructed Milhan, Shaini and Gaffor Mama to proceed to Batticaloa. When they reached there Rilwan was in a serious condition. Azad was also there. Initially they tried to take Rilwan to Batticaloa hospital but Rilwan asked them not to do so.

It appears that based on the advice given, Rilwan was given first aid and then transported to Colombo for treatment. Zaharan and Sadeeq travelled in another vehicle to Colombo. Rilwan was brought to Colombo in another vehicle from Kattankuddy by others including Azad and a brother-in-law of Zaharan.

Rilwan was admitted to the hospital and the name of M.I. Shahid was given as the name of the patient. The hospital authorities were informed that the injuries were due to a gas cylinder explosion. However Dr. Chandana who examined the patient at the Emergency Treatment Unit placed a question mark in front of the given history as he was not totally convinced that the

injuries were consistent with the given history and made a further endorsement that the Police are informed. In fact one of the nurses Shiromi Widyasekera testified that she also informed Dr. Chandana that the injuries were inconsistent with the patient history.

However it appears that the bed head ticket was taken by a person who was acting as the guardian of Rilwan to the Police Post at the National Hospital. PS Aruna Shantha Tennakoon who was on duty was informed that there is no need for a Police inquiry. An endorsement to that effect had been made in tamil and no further action taken was taken although PS Tennakoon admitted that he cannot read tamil. The evidence of the OIC of the Police post at that time CI Bandula Chandrasiri Nanayakkara was that he was not informed of this action.

There was every possibility that more information of the incident and may be the preparations that were ongoing into violent activities by this group would have been discovered if action was taken as specified in the bedhead ticket of Rilwan. It is also of concern to the COI that Rilwan was able to obtain treatment without divulging his true identity.

The COI recommends that at the earliest convenient time, the identity of the patient admitted to governmental hospitals should be established through the production of the National Identity Card, Passport or the Driving License. Further the procedure in relation to the work of Police posts at all governmental hospitals should be reviewed. Procedures should be implemented to ensure that a Medico-Legal Examination Form is issued to all patients as recommended by a Medical Officer and the patient be produced to a Judicial Medical Officer for examination. The Judicial Medical Officer should after examination issue a Medico-Legal Report and the Police should be

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instructed to conduct further investigations based on the findings of the Judicial Medical Officer.

6. *Information from Pakistan Authorities*

On 10th August 2018, Pakistani authorities shared with the Sri Lankan High Commission in Islamabad, Pakistan vital information regarding a Sri Lankan national. During routine monitoring it was found that he is an active member of the Daish's (reference to the IS) online networks and is planning/in process of preparing explosive devices from easily available chemicals. Jihadi material retrieved from the suspect included details of preparation of IEDs, VBIEDs/IEDs and ac bombs/IEDs, encryption key instructions/use guide, weapon training manuals. Some pictures of the suspect were also included in the material handed over.

The COI notes with concern that this communiqué does not appear to have reached the Sri Lankan Defence authorities and recommends that an investigation be conducted into this omission.

Thus far, this information does not appear to be directly connected with the Ester attack. Yet, the activity may have prompted the authorities to take serious note of the developments.

7. *Failure to Arrest Army Mohideen and Rilwan*

In March 2019, SIS operatives pointed out to CID officers the place where Army Mohideen was hiding and the place frequented by Rilwan. The CID officers were aware of the warrant issued on Army Mohideen over the Aliyar junction incident. However, instead of arresting him, they sought to obtain information from him on Zaharan and gave the telephone number of one of the CID officers.

No evidence was given by the CID officers on measures taken on the information given on the whereabouts of Rilwan.

8. *Failure to Act on Indian Intelligence*

The Indian authorities provided Nilantha Jayawardena, Director SIS with detailed and valuable material on 4th of April 2019 about an impending attack by Zaharan and his group. According to the Director SIS this was only information and not intelligence. The difference between the two will be examined in the next chapter. However, the COI is of the view that this material was more than sufficient for an operation to be launched to prevent the attack which was not done.

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Chapter 13

Early Warnings

Soon after the Easter Sunday attacks it became public that the intelligence and law enforcement officials had prior warnings of the impending attack but failed to act. In this chapter the COI examines this aspect.

The Director SIS received early warnings of a possible attack from Zaharan's group from one of his counterparts. The COI has given anxious consideration whether the source should be revealed in the Report. It was decided that this has to be done, while protecting the identity of individuals, in view of certain indirect allegations made against the intelligence agencies from that country by the Director SIS as well as some other witnesses questioning the role of that country as well as its intelligence agencies in the events and since the mandate of the COI required it to decide whether there were other organizations or persons behind the attacks.

On 4th April 2019, Director SIS received a whatsapp message from an Indian counterpart which read:

> "As per an input, Sri Lanka based Zaharan Hashmi of National Towheed Jamaat and his associates are planning to carry out suicide terror attack in Sri Lanka shortly. They are planning to target some important churches. It is further learnt that they have conducted reconnaissance of the Indian High Commission Sri Lanka and it is one of the targets for the planned attack.

2. The input indicates that the terrorist may adopt any of the following modes of attack.

   a. Suicide attack

   b. Weapon attack

   c. Knife attack

   d. Truck attack.

3. It is also learnt that the following are the likely team members of the planned suicide terror attack.

   i. Zaharan Hashmi

   ii. Jal Al Quithal

   iii. Rilwan

   iv. Sajid Moulavi

   v. Shahid

   vi. Milhan and others

The input may kindly be enquired into on priority and a feedback given to us."

In intelligence circles, there is a clear distinction between information and intelligence. Information is raw data. It can be any kind of information. This must be converted into a form that has some intelligence value. Once the conversion takes place the information becomes intelligence.

The process of gathering information and converting it into intelligence is called the Intelligence Cycle. It consists of Planning and Direction, Collection, Processing and Dissemination. The first step is Planning and the giving of a Direction. This is generally given by a higher authority. Then based on the Direction, information is collected from different sources. Thereafter, the

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collected information is processed by analyzing. Once the information is analyzed, it then becomes converted into intelligence.

Intelligence circles also uses the 5W1H approach (who, what, where, when, why, how) to checking on the reliability of intelligence. The Director SIS when questioned on this took up the position that it is only used in business analysis. However, another senior officer of the SIS confirmed that this is an analysis tool used by the SIS. An application of this method to the intelligence received on 4th April shows that it has a high degree of reliability.

In this context, it is of vital importance to ascertain whether the input received from an Indian counterpart is intelligence or mere information which the SIS then had to convert to intelligence. Director SIS Nilantha Jayawardena was adamant that it was mere information. However, the COI heard from several other intelligence experts that it was definitely intelligence and the COI agrees with this view.

Generally, when an intelligence agency receives intelligence from a counterpart, the first thing that is done is to check with the counterpart of the reliability of the intelligence. It was the position of the Director SIS that this was done by him. He stated that even the Indian counterpart was not certain about the reliability of the intelligence.

Here the COI was hamstrung by the fact that there are no records at the SIS of the communication the Director SIS had with his counterpart. This is notwithstanding the Director SIS testifying that routinely such records are maintained and that in fact a record of this communication was made by him. It would have been of great assistance to know what was conveyed by both parties to each other and in particular the stand of the Director SIS on it.

It is of great significance to note that the Indian counterpart had specifically requested in the communication of 4th April 2019 that the intelligence given be *"enquired into on priority and a feedback given to us"*. The COI directed the SIS to produce for any such feedback given to the Indian counterpart. The SIS indicated that no such record is available. The COI has no reason to doubt the truthfulness of this intimation from the SIS in view of the conduct of the Director SIS.

In particular, it was evident to the COI that although he was not the Director SIS anymore, Nilantha Jaywardena had kept copies of important material in relation to the incident. Yet he did not produce any evidence of the communication between him and the Indian counterpart or his response to the intelligence provided on 4th of April 2019.

The COI concludes that Nilantha Jayawardena, Director SIS in fact did not give any feedback to either of his Indian counterparts. This becomes clear when one considers his response to a question posed on whether he received a message from his second Indian counterpart on 20th April 2019 after his first counterpart gave him a second intelligence on that day about an attack due to take place on or before 21st April 2019.

He testified that the following message was received:

> "Hi! I am forwarding an input received from Headquarters regarding a threat from Zaharan Hasheen Hashmi on Indian interest in Sri Lanka before 21st April 2019. A similar report had been passed on by us a couple of weeks back. The difference is that this stand the input indicates a time frame and says a dry run has been carried out in

Kathankudi. May please see for necessary action and feedback. HQ also **wanted to know feedback the earlier input if any regards**."

(Proceedings of 20th August 2020 emphasis added)

The question was posed since the second Indian counterpart had on 5th April 2019 confirmed the intelligence the first Indian counterpart gave the Director SIS on the 4th of April 2019.

The subsequent conduct of Director SIS shows that he did not give due weightage to the intelligence given on 4th April 2019.

For example, President Sirisena was due to tour Batticaloa on 12th April 2019 for a series of functions. As is the practice, a threat assessment report was called from the SIS on the proposed tour. By letter dated 10th April 2019 a threat assessment report was sent to the DIG (Presidential Security Division) signed by the Director SIS. It stated that there is no threat to the President or the tour from terrorist, extremist or other groups.

However in the same report he mentions about Zaharan and states that his facebook uploads refers to persons who do not follow Islam as Kafirs and they should be destroyed and Islam protected (Fig. 1). Nothing is mentioned about the information received on 4th April 2019 from a counterpart which contained Zaharan's name.

Islamic State සංවිධානයේ ශ්‍රී ලංකාවේ ක්‍රියාකාරිත්වය

- ශ්‍රී ලංකාව තුළ පිවතන්වන මුස්ලිම් තරුණයින් 130කට ආසන්න පිරිසක් IS සංවිධානයේ මතවාදය වෙත නැඹුරුව සිටින බවත් ඔවුන් අතරින් පුද්ගලයින් 30කට ආසන්න පිරිසක් මධ්‍යකළාපුව ප්‍රදේශයේ පදිංචි බවටත් බුද්ධි තොරතුරු හරහා හඳුනාගෙන ඇති බවට වාර්තා වේ.

  මධ්‍යකළාපුව දිස්ත්‍රික්කයේ කාත්තන්කුඩි ප්‍රදේශය කේන්ද්‍ර තරගතිමත් ත්‍රියාත්මක ජාතික තවහිද් ජමාත් National Thowheed Jama'ath (NTJ) සංවිධානයේ හිටපු නායක එම්.සි.එම්. සහ්‍රාන් යන අය විසින් මෙරට දේශපාලන භූමියේ ප්‍රජාතන්ත්‍රවාදය, නීති පද්ධතිය සහ අනෙකාගමිකයින් පිළිබඳව විවේචනාත්මකව අදහස් දක්වමින් වීඩියෝ පට සිය සමාජ ජාල ගිණුම් හරහා ප්‍රචාරය කර ඇති බවත් සංවිධානයේ මතවාදයට නැඹුරුවූ පිරිස් අදාළ වීඩියෝ පට පරිශීලනය කර ඇති බවටත් අනාවරණය වී ඇත.

  එසේම, මොහු විසින් සිය සමාජ ජාල ගිණුම් හරහා වීඩියෝ පට යොමුකරමින් අල්ලාහ් දෙවියන් විසින් යොමුකරන ලද දර්ශනය ප්‍රතික්ෂේප කරන අයවළුන් තුහර්, නෙවන් කාෆිර්වරුන් ලෙස යැදහත් කරමින් ඔවුන් විනාශ කර දේවාලය ආරක්ෂා කළයුතු බවට ප්‍රචාරය කර ඇත.

- එමෙන්ම, IS සංවිධානයේ මතවාදය වෙත නැඹුරුව සිටින පුද්ගලයින් IS වෙබ්අඩවි සහ සමාජ ජාල ගිණුම් තිරන්තරයෙන් පරිශීලනය කරමින් IS ප්‍රචාරණ මාධ්‍ය මඟින් ලබාදෙන උපදෙස්/නියෝග පත් සිරියාවේ සහ ඉරාකයේ ත්‍රියාකාරකම් පිළිබඳ තීරණගනය කරමින් සිටින බවට වාර්තා වී ඇත.

Fig. 1

Azad, who carried out the suicide attack on Zion Church Batticaloa, stayed at the Muslim mosque situated in front of Weber Stadium where the meeting of the President was conducted on 12th April 2019.

The natural course of action for the Director SIS to do if he had given due weight to the intelligence given by his Indian counterpart was to mention it in the threat assessment report submitted to the DIG (Presidential Security Division). No such reference was made.

The Director SIS sent letter dated 7th April 2019 to the CNI attaching a copy of the intelligence received from the Indian counterpart. The covering letter identified the subject as "Information of an alleged plan of attack" and stated:

"Attached herewith is an information received from a foreign counterpart. For information and instructions please."

It was the position of the Director SIS that even by this time, what he had received from an Indian counterpart remained to be information and not intelligence. He also explained the use of "alleged" to mean "they say we don't know".

The CNI Sisira Mendis admitted receipt of this letter on 8th April 2019 around 10.00 a.m. He discussed the contents with Hemasiri Fernando, Secretary Defence on the same day after 3.00 p.m. and was informed that the matter can be discussed at the intelligence coordinating meeting scheduled to be held the next day i.e. 9th April 2019.

The evidence of Hemasiri Fernando, Secretary of Defence, Nilantha Jayawardena Director SIS and Sisira Mendis CNI differs on the actual events of the intelligence coordinating held on 9th April 2019. However all three agree that the intelligence received from the Indian intelligence was not discussed at the meeting. Director SIS states that he asked CNI to take up the matter. CNI states that he informed Secretary Defence "Sir, Nilantha's matter". Secretary Defence states that he asked Director SIS "Nilantha your letter?". Director SIS had replied that he is preparing a letter to be sent to the IGP and will do so shortly after the meeting.

The COI views this as a serious lapse. The intelligence coordinating meeting was started during the LTTE days to ensure that there is coordination between intelligence agencies and intelligence as well as information is shared.

The DMI is an important component of the intelligence coordinating meeting. In fact as a matter of practice, the opening speech of the meeting is made by

the Secretary Defence followed by presentations by the Director SIS and then the DMI. Other participants included the heads of the three armed forces, heads of the other intelligence organizations and the IGP. The failure to discuss the Indian intelligence at the meeting prevented a coordinated attempt at thwarting the attack in particular, due to DMI also possessing substantial intelligence on Zaharan and his group.

The COI finds that all three officials, namely Hemasiri Fernando, Secretary of Defence, Nilantha Jayawardena Director SIS and Sisira Mendis CNI must be held accountable for the failure to discuss the Indian intelligence at this meeting.

The Director SIS as a matter of practice presents the intelligence or information available with the SIS during these meetings. No special invitation is made for him to discuss any particular subject. The Indian intelligence should have been presented by him with a detailed analysis as incumbent on the premier intelligence agency of the country.

Upon the failure of the Director SIS to do so, the CNI should have raised the matter openly with all other intelligence agency representatives at the meeting. The primary duty of the CNI is to coordinate the sharing of intelligence between these agencies.

Even where the Director SIS and the CNI failed in their duties, the Secretary Defence should have taken the issue up for open discussion. He was aware of the intelligence by the 8th of April as intimated by the CNI. Article 52(2) of the Constitution requires the Secretary of every Ministry to, subject to the direction and control of the Minister, exercise supervision over the departments and other institutions in charge of the Minister. The Director SIS

Presidential Secretary's Copy

and the CNI were both reporting to him at that time. Both these institutions were under his supervision in terms of the relevant gazette notification.

The Director SIS had around the 4th of April 2019 forwarded the message received from the Indian counterpart to the Deputy Director of the relevant division who in turn forwarded it to the Assistant Director. He then sent it to the Officer-in-Charge of the division. The Director SIS also sent a team to the Eastern Province to investigate into the matter. Assuming that it was only information as contended by the Director SIS, the next step in the intelligence cycle was to analyze it and convert it into intelligence.

On 5th April 2019, the Deputy Director of the relevant division sent his report to the Director SIS. He states that of the persons identified in the input, some have been identified in intelligence operations. Out of them, Zaharan Hashim and Shahid have been identified during as being in hiding in Oluvil, Akkaraipattu after the Mawanella incidents from 26th December 2018 according to intelligence reports. It was further stated that Rilwan is the brother of Zaharan and that he too is in hiding after the Aliyar junction incident on 10th March 2017 and that according to intelligence reports he too is in hiding in Oluvil and that he comes in the nights to an address in Ariyampathy where his wife and child resides.

The report goes on to state that the person identified as Milhan maintains a facebook account as Mohomed Milhan who has connections with Zaharan. On 15th March 2019 he had been sharing vituperative ideas about non-Muslims after the Christchurch attack by a Catholic in New Zealand.

It further mentioned that although there is no indication that Zaharan has thus far motivated his followers to attack Catholic churches or the Indian High

Commission, previously he had motivated his followers stating that killing of non-Muslims is a great act and that Islam should be spread by killing non-Muslims.

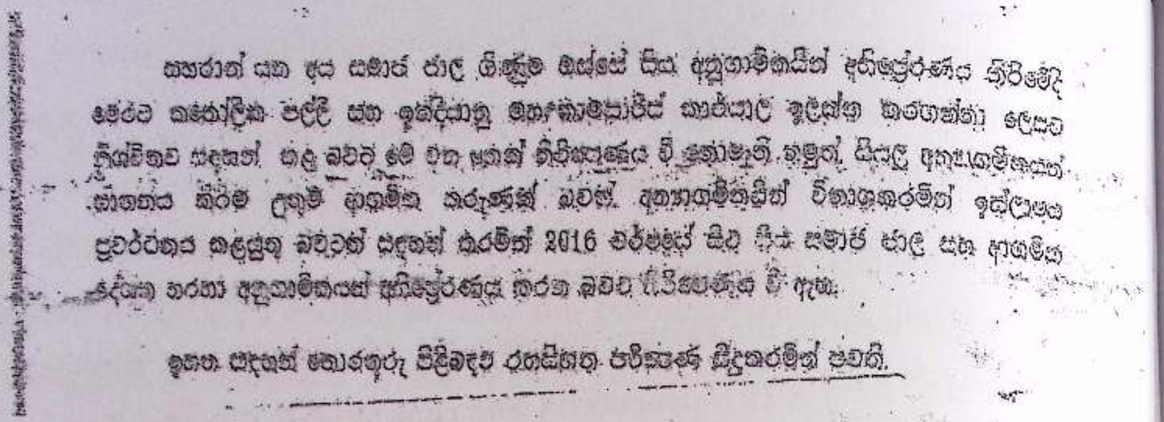
The team sent to the Eastern Province returned to Colombo on the 8th of April 2019 and reported to the Director SIS.

Based on the report sent by the Deputy Director and the feedback given by the team which went to the Eastern Province, the Director SIS sent a letter to the IGP dated 9th April 2019 (Appendix IV) with copy to SDIG, CID. He informed that based on a preliminary examination conducted, the SIS had identified a few persons named in the information. He went on to give details of Zaharan but surprisingly it is limited to stating that he has fled the area after the attacks on the Buddha statues in Mawanella and is in hiding in Oluvil, Akkaraipattu. None of the several acts done by Zaharan in the run up to this information is mentioned.

The Director SIS ends by stating that although there is no specific information that Zaharan has urged his followers to target the Indian High Commission or Catholic Churches, Zaharan had in his facebook posts from 2016 stated that killing of non-Muslims is a great religious act and that propagation of Islam should be done by killing non-Muslims and that secret inquiries are being conducted on the information provided by the foreign counterpart.

The view of the majority of the intelligence experts, which the COI accepts, is that this part of the letter has reduced the specificity of the intelligence. The

last part reads:



The COI is of the view that this lapse is due to critical omissions based on the intelligence already available with the SIS at that time. In analyzing information received and then converting it into intelligence, one important element is to consider earlier information or intelligence the SIS possessed on the subject matter. Assuming that the material given by the Indian counterpart is information as contended by the Director SIS, the following information and intelligence was was overlooked although available with the SIS by 4th April 2019:

(a) From September 2016 Zaharan openly advocated the IS ideology and issued statements in support of it.

(b) Zaharan conducting a training camp in Nuwara Eliya from 5th to 7th May 2018 where about 25 selected persons took part in a workshop on the use of explosives and firearms.

(c) In early November 2018, Director SIS informed the Secretary Defence that although IS is losing ground in Iraq, Syria and Afghanistan, IS

sympathizers/supporters in Sri Lanka is acting in furtherance of establishing an Islamic State.

(d) Around mid-November 2018, Director SIS informed the Secretary of Defence that Sri Lankans who have been identified as followers of the IS propaganda are living with hatred towards foreigners and non-Muslims and rejecting democracy. It was further mentioned that in this background it is possible that these Muslim youth may suddenly launch attacks on non-Muslims.

(e) On 1st November 2018 Zaharan posted on his facebook a picture of a IS fighter and noted that although Allah had provided an opportunity to the IS fighters to perform jihad on behalf of Islam, he (Zaharan) does not have the opportunity although he had the power to do so.

(f) The investigations into breaking of religious statues in Mawanella and other areas in late December 2018, including Buddhist, Christian and Hindu statues, revealed the involvement of Zaharan and his group.

(g) Zaharan was linked to the explosives and weapons found at Wanathawilluwa. A sizeable amount of bomb-making material such as potassium nitrate, nitric acid, detonators etc. were recovered from there. Some books showing the path to "jihad" and inspiring words of the world famous Yemeni-American radical preacher, Anwar Al Awlaki was also found. A letter containing a diagram of a circuit and details of the making of bombs was found in the wallet of one of the suspects arrested.

(h) On 23rd January 2019, in the backdrop of losing the last shreds of its Caliphate in Eastern Syria near Iraqi border the IS released a video urging its supporters to "get on the path of jihad".

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(i) On 31st January 2019, Zaharan issued a video on his facebook page claiming that the permanent life is life after death and that for the protection of life after death one must kill non-Muslims and perform jihad. He went on to state that life in this world and after death has been analyzed in the Qur'an and Hadees according to which Allah becomes happy only if Islam is propagated in the world by killing non-Muslims.

(j) On 1st February 2019, Zaharan released a video on his facebook account and said that Allah has shown the correct way and the only way to go on that road is to perform jihad and kill non-Muslims and establish an Islam state.

(k) On 5th February 2019 Zaharan uploaded a video where he glorifies jihad and states that it is not sufficient that a Muslim propogates about Oneness of God but that jihad is mandatory and that effort must be made to perform jihad. He further states that only if one performs jihad can a person go to paradise. He calls upon Muslims to die as fighters.

(l) By 1st March 2019, Rilwan was motivating youth in Batticaloa, Ampara and Trincomalee districts to launch a IS style attack in Sri Lanka.

(m) On 6th March 2019, Zaharan released a video on his facebook page titled "The Blood of Kafirs and the Economy" and informed his supporters to kill non-Muslims as soon as the Islam holy months are over. He goes on to explain that according to Sura 9:5 in the Qur'an, one must do meritorious acts in the 1st, 7th, 11th and 12th months of

Islam and in the other months non-Muslims must be killed on site and non-Muslims who embrace Islam must be allowed to proceed on their journey. He further stated that the Muslims who follow to the letter the teachings in the Qur'an kills non-Muslims during the non-holy months and acquire their property. He concluded by stating that the best option is to establish an Islamic State under the leadership of a Caliph.

(n) By 31st March 2019, the Director SIS knew and had shared information of the killing of 49 Muslim worshippers attending prayers at two mosques in Christchurch, New Zealand by shooting on 15th March 2019 by a white nationalist extremist. He went on to state that the last enclave of IS's caliphate in Eastern Syria's Baghouz village is on the collapse. However he warned that according to analysts, its followers are still vowing to murder non-believers across the world, believing that the caliphate will continue to prevail because it has been ingrained in the hearts and brains of the youth. In fact, in a new online audio, the IS has called on supporters across the world to stage attacks in defense of the die-hard militants, who are fighting in their last foothold in Eastern Syria. The IS had also urged their brethren in Europe and overseas to rise against the Crusaders and revenge for the religion. The reference to Crusaders is a reference to Roman Catholics.

(o) After nearly six months of silence, Abu Hassan AL-MUHAJIR, the spokesperson for the IS had emerged after the killing of 49 Muslim worshippers attending prayers at two mosques in Christchurch, New Zealand by shooting on 15th March 2019, with an audio recording, calling for retaliatory attacks, against the mosque attacks in New

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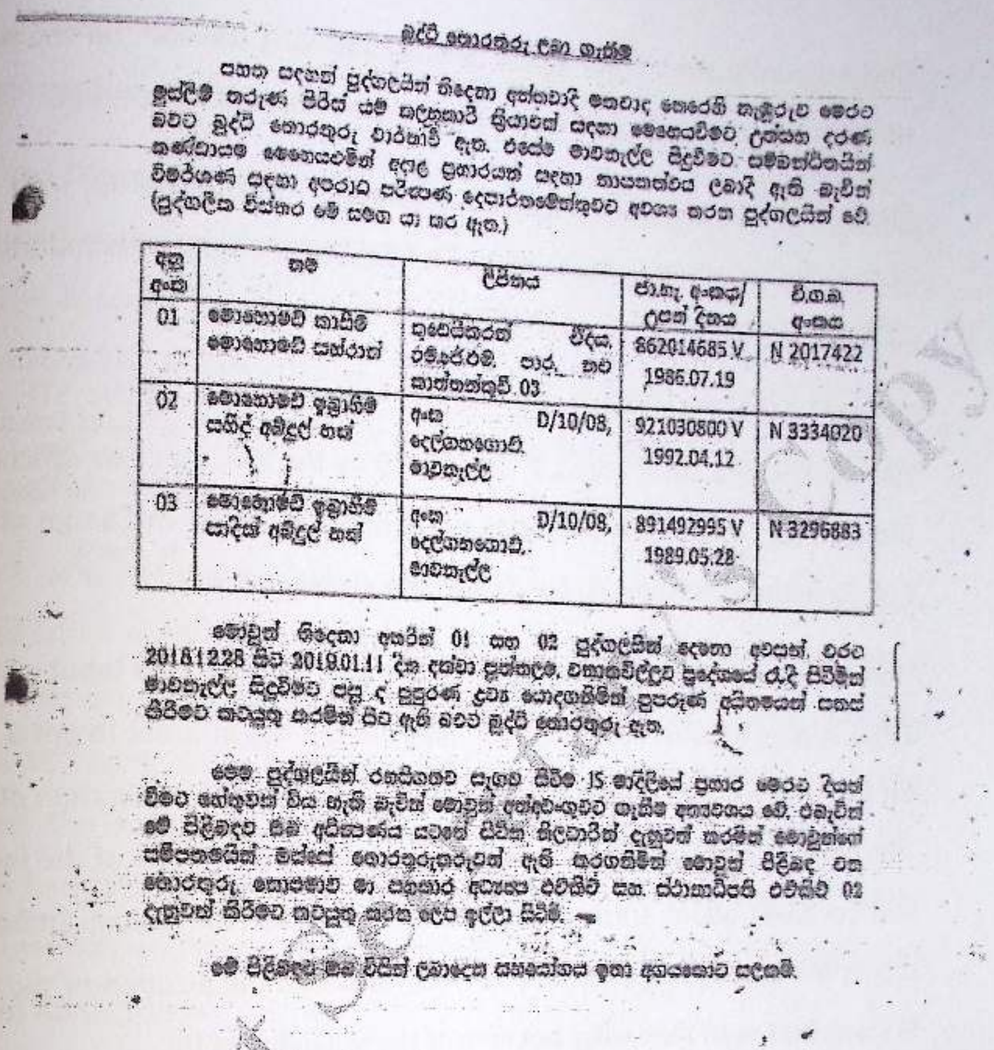
Zealand. The audio said, "The scenes of the massacres in the two mosques should wake up those who were fooled, and should incite the supporters of the caliphate to avenge their religion". All of this intelligence was within the knowledge of the Director SIS.

(p) It critically overlooked an internal memo dated 26th March 2019 (Fig. 2), sent by the Deputy Director of the relevant branch overlooking Islam extremism sends a note to all senior and supervising officers of the SIS that Sadeek, Shahid and Zaharan have given leadership to the Mawanella attacks and that the first two have been hiding at Vanathavilluwa between 28th December 2018 to 11th January 2019 and manufacturing explosive devices using explosives. It goes on to further state that the three of them hiding can lead to a launch of a IS style attack in Sri Lanka and it is imperative that they are arrested immediately.

President Secretary's Copy

බුද්ධි තොරතුරු ලබා ගැනීම

පහත සඳහන් පුද්ගලයින් තිදෙනා අත්තවාදී මතවාද තෙරෙහි කැමුරුව මෙරට මුස්ලිම් තරුණ පිරිස් යම් කලහකාරී ක්‍රියාවක් සඳහා මෙහෙයවීමට උත්සහ දරණ බවට බුද්ධි තොරතුරු වාර්තාවී ඇත. එසේම මාවනැල්ල සිදුවීමට සම්බන්ධිතයින් කණ්ඩායම මෙහෙයවමින් අදාළ ප්‍රහාරයන් සඳහා නාසකත්වය ලබාදී ඇති බැවින් විමර්ශණ සඳහා අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවට අවශ්‍ය තරන පුද්ගලයින් වේ. (පුද්ගලික විස්තර මේ සමග යා කර ඇත.)



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01	මොහොමඩ් කාසිම් මොහොමඩ් සහ්රාන්	තුවෙයිකරන් වීදිය, රම්.ජ.එම්. පාර, නව කාත්තන්කුඩි 03	862014685 V 1986.07.19	N 2017422
02	මොහොමඩ් ඉබ්‍රාහිම් සහිද් අබ්දුල් හක්	අංක D/10/08, දෙල්ගහගොඩ, මාවනැල්ල	921030800 V 1992.04.12	N 3334020
03	මොහොමඩ් ඉබ්‍රාහිම් සාදික් අබ්දුල් හක්	අංක D/10/08, දෙල්ගහගොඩ, මාවනැල්ල	891492995 V 1989.05.28	N 3296883

මොවුන් තිදෙනා අතරින් 01 සහ 02 පුද්ගලයින් දෙනා අවසන් වරට 2018.12.28 සිට 2019.01.11 දින දක්වා පුත්තලම, වනාතවිල්ලුව ප්‍රදේශයේ රැඳී සිටිමින් මාවනැල්ල සිදුවීමට පසු ද පුපුරණ ද්‍රව්‍ය යොදගනිමින් පුපරුණ අයිතමයන් සකස් කිරීමට කටයුතු කරමින් සිට ඇති බවට බුද්ධි තොරතුරු ඇත.

මෙම පුද්ගලයින් රහසිගතව සැඟව සිටීම IS මාදිලියේ ප්‍රහාර මෙරට දියත් වීමට හේතුවන් විය හැකි බැවින් මොවුන් අත්අඩංගුවට ගැනීම අත්‍යවශ්‍ය වේ. එබැවින් මේ පිළිබඳව මිස අධීක්ෂණය යටතේ සිටින නිලධාරීන් දැනුවත් කරමින් මොවුන්ගේ සමීපතමයින් මස්සේ තොරතුරුකරුවන් ඇති කරගනිමින් මොවුන් පිළිබඳ වන තොරතුරු කොපමාව මා පහතාර අධ්‍යක්ෂ එවිසිව් සහ ස්ථානාධිපති එවිසිව් 02 දැනුවත් කිරීමට කටයුතු කරන ලෙස ඉල්ලා සිටිමි.

මේ පිළිබඳව මිස විසින් ලබාදෙන සහයෝගය ඉතා අගයකොට සලකමි.

(Fig. 2)

On 9th April 2019, the CNI forwarded to the IGP a letter attaching the communiqué he received from the Director SIS on 8th April with a covering letter which was received by the IGP on the same day. Hence by this date, the IGP had this letter and letter dated 9th April 2019 sent by the Director, SIS.

The IGP then sent both these letters to SDIG (Western Province and Traffic), SDIG (Crimes and STF), DIG (Special Protection Range) and Director, CTID with a note "F.N.A.". (Appendix V)

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The accountability of the Police officers, including the IGP, on the actions or omissions on this information is discussed separately in Chapter 20.

Director SIS did not communicate any further on this matter with Hemasiri Fernando, Secretary Defence, Sisira Mendis, CNI or Pujith Jayasundera IGP until 18th April 2019.

On 10th April 2019, SDIG M.R. Latheef, Commandant of the STF acting in response to the letter dated 9th April 2019 by the IGP, met two officials of the Indian High Commission DIG Santhosh Varma and Officer-in-Charge of Security Col. Ravindran and advised on the security arrangements.

On 12th April 2019, the Indian counterpart who provided the input on 4th April 2019, requested the SIS Director to speak to the IGP in order to get a pilot car for the Indian High Commissioner as he was due to travel outstation during the weekend. It was said that this request is being made in view of the input they had received about truck attacks. This shows that the Indian Embassy was taking the intelligence provided seriously although the position of the Director SIS was that even they were not sure of the reliability of it.

The COI is baffled as to why Director SIS did not pursue the intelligence given by the Indian counterpart any further than sending the letter dated 9th April 2019 to the IGP. In particular, since he ended that letter by stating that secret inquiries are being conducted on the information provided by the foreign counterpart. There was no reason for the Director SIS not to send any further details until the motor bicycle blast at Thalankuda the details of which came to their knowledge on 17th April 2019.

This is a clear indication that the Director SIS did not give due weight to the intelligence given by the Indian counterpart.

In fact the Director SIS did not share the intelligence received from his Indian counterpart with any of the other divisions of the SIS until the 20th of April 2019. This is surprising given that he thought it fit to direct that the internal memo dated 26th March 2019 be distributed to all divisions of the SIS about the possibility of a IS style attack in Sri Lanka due to Zaharan, Sadeeq and Shahid being in hiding.

The lack of a coordinated effort within the SIS to address the intelligence received on 4th April 2019 was reflected at a meeting convened by the DIG of the Presidential Security Division to discuss security threats to the President held on 18th April 2019. A SSP of the SIS took part in the monthly where he informed the gathering, amongst other matters, that NTJ and its leader Zaharan had told his followers that non-Muslims in Sri Lanka must be killed. Yet no mention was made about the warning received from a counterpart on the 4th of April 2019.

This is all the more questionable given that at the same meeting ASP Randeniya (ASP Colombo South) mentioned that supporters of the IS in Sri Lanka entertain the idea of killing with anything that they can lay their hands upon. It transpired that the SSP of the SIS was not given information of the intelligence received on 4th April 2019.

On 17th April 2019 around 8 p.m. the Director SIS received information of a blast in the Eastern Province. Early next morning he received pictures of the blast site. He realized it was a motorbike blast. The owner of the land had

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made a complaint to the Police around 7 p.m. on 17th April about it. Investigations revealed the blast to have taken place around 9.20 p.m. on 16th April 2019.

On 18th and 19th April 2019, Director SIS sent two letters containing detailed information to the IGP on the motorbike blast in Thalankuda in Kattankuddy area and informed that this is a test run to do a blast using a motorbike as the training class held in Nuwara Eliya in May 2018 discussed about the making of explosives. He wanted all the Police stations to be informed of motorbike bearing no. WP BCY 2183. It had been purchased by Zaharan's group. He had earlier called the Hemasiri Fernando, Secretary Defence on 18th April at 14.57 and informed him of the details of the investigations. The call lasted for nearly four minutes. He had also sent a whatsapp message containing the pictures of the blast site. On the same day around 3.08 p.m. the Director SIS informed the Director DMI of details of the blast.

Earlier on 18th April 2019, Director SIS had contacted one of his Indian counterparts and given information of the thalankuda blast and wanted him to get more information about it from his source. On the morning of 20th April the Indian counterpart who gave the intelligence first forwarded to him copies of a letter that was in circulation which included the input sent by the counterpart. According to the testimony of Director SIS, the counterpart was worried of the exposure of the input to the public as it may be an obstacle for them to get more information on Zaharan and his group.

ඒ එක්කම මම ඔහුට කතා කලා. මම කතා කරලා කිව්වා. ඔයගොල්ලන්ගේ නම මේ සම්බන්ධ නැහැ. ඔයගොල්ල ඒ ගැන කණගාටු වෙන්න එපා. මේක වෘත්තීමය භාවයෙන් අඩුයි. ස්වාමිනි ඒ තොරතුර අති රහසිගතයි කියලා ඉදිරිපත් කලේ. එතකොට ඒගොල්ලෝ ඒක ගැන පොඩි ගැටලුවක් තිබ්බා. තොරතුරු ලබාගැනීමට බාධාවෙයි කියලා මම කිව්වා ඒක ගැන එච්චර මේවා කරන්න එපා. මම ඔයගොල්ලන්ගේ නම කොහෙවත් කියලා යවලා නැහැ. ඒ ගොල්ලොත් worry වුනා තොරතුර එලියට ආව ගමන්. මම permission අරන් යැව්වට. එතකොට මේක හැමතැනම යනවනේ සර් කියලා මට කිවා. එතකොට ඒගොල්ලෝ පොඩි concern එකක් පෙන්වුවා මට. ඒ කියන්නේ තොරතුරු පත්‍රයත් ඒ විදියටම circular වෙලා තියෙන හින්දා. එතකොට ඒගොල්ලන්ට මට එයා කිව්වේ නෑ ඒක එදාමද ලැබුනේ කියලා. ඒ ගොල්ලන්ටත් ඒක ලැබිලා තිබ්බා. ඒ කියන්නේ වටේටම ප්‍රහාරයට පෙර ගිහිල්ලා තියෙනවා.11වෙනිදා ඕක පල්ලෙහාට යවලා තියෙන්නේ. ඒ අනුව 11 වෙනකොට ඒගොල්ලන්ට ලැබිලා තිබ්බා.

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The Director SIS assuaged the concern of his Indian counterpart and requested for further information based on the motorbike blast.

On 20th April 2019, at 16.12 the counterpart sent the following whatspp message:

> "As per a reliable input, Zaharan Hasim of National Towheed Jamath of Sri Lanka and his associates have hatched a plan to carry out an Isthishhad attack in Sri Lanka. It is further learnt that they have conducted a dry run and caused a blast with explosives laden Motorcycle at Palmunai near Kattankudy in Sri Lanka on 16.4.2019 as part of their

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plan. It is learnt that they are likely to carry out their Istishhad attack in Sri Lanka at any time on or before 21.4.2019. They have reportedly selected 8 places including a church and a Hotel where Indians inhabit in large number. Further details awaited."

The Director SIS forwarded this message to Secretary Defence, IGP, CNI, SDIG CID as well as before that he spoke with his counterpart as is the normal procedure to get a debriefing.

"I asked whether it was a wire tap? Then he said no this is a live source. And I said now there is a confirmation because you have given this you have given the confirmation of our assessment about the Kaththankudi thing. Because we also found out that they had used lot of what do you call bicycle bearings, bold bearings for the attack so it is an indication that they are ready because we have identified all these people even they have seen the people who have because he spoke to me in the morning also with the report that I have sent to IG with the names and places of the people Zaharan, Rilvan and all those people because he told me."

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In addition to sending whatsapp messages, the Director SIS spoke with the IGP and verbally conveyed the message received from his counterpart. The call took place at 17.03.36 and the duration was 133 seconds. He asked the Director SIS to pass on the message to SDIG Nandana Munasinghe, SDIG Western Province. Similar calls were given to Ravi Seneviratene SDIG CID, SDIG Lathheef SDIG (Crimes and STF).

The Director SIS tried to call SDIG Nandana Munasinghe and DIG (Colombo) Lalith Pathinayake but could not get through. However both of them called back later and the Director SIS conveyed the message to them. The conversation with SDIG Nandana Munasinghe took place around 17.55 and lasted for 384 seconds.

Later Director SIS called the Secretary Defence at 18.02 and updated him and requested him to call the IGP as the Director SIS thought that the IGP had not taken the information seriously. This conversation lasted 202 seconds.

The Director SIS testified that he tried to contact President Sirisena in Singapore to convey the information but failed to do so.

The COI noted that on 20th April 2019 the SIS Director, in the weekly intelligence report for the period 14th to 20th April 2019, refers to the explosion at Thalankuda area in Kattankuddy on 16th April 2019 but stops short of linking it to Zaharan and his group although by then he had sent special report to the IGP indicating the suspected networks. The weekly intelligence report is shared with DMI as well and it is surprising why these details were not disclosed given that the DMI area of operation and resources were greater than the SIS.

It is only on the 20th April 2019, that the full resources of the SIS appear to have been used to address the intelligence received. The Deputy Director of the relevant branch of the SIS handling Islam extremism, informed the heads of all other divisions of details of a motor bike bearing number WP BCY-2183 and states that Zaharan and his group is planning to carry out an act of destruction using the bike. It goes on to state that Zaharan had in his classes said that killing of non-Muslims and persons who deny his opinion is a great act of jihad.

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On 21st April 2019, at 8.27 a.m. Director SIS received another message from his first Indian counterpart which read:

"Sir, One of their target is Methodist Church, Colombo."

At the same time he received the following message from the same source:

"Respected Sir, Good morning, They are likely to operate between 0600 hrs and 1000 hrs today. Further details awaited. For kind information sir"

The Director SIS immediately contacted SDIG (Western Province) Nandana Munasinghe and informed him. The call lasted 89 seconds. The testimony of the Director SIS is that he enquired whether Police had been deployed on the road. He then spoke with Hemasiri Fernando Secretary Defence and Pujith Jayasundera IGP and gave the information.

The factual position set out above forms part of the evidence before the COI obtained through oral and documentary evidence and including from investigators.

Chapter 14

The Attacks

In this chapter, the details of the attacks carried out on 21st April 2019 are explained.

1. Kingsbury Hotel

The suicide attack was carried out by Mubarak.

On the 17th of April 2019, Inshaf had gone to Kingsbury Hotel by a three-wheeler bearing number 201- 4592 at 1400 hours. He had approached the reception around 1412 hours and had made a booking for room no 819 for the 20th of April 2019 under the name of "Abdullah Abdullah". The COI observed from the CCTV footage that Inshaf who came for the reservation of the hotel room had approached the reception counter furthest away from the CCTV camera fixed near the reception, thereby, rendering his identity unclear. This may be an indication that the group may have conducted a surveillance of the hotel earlier.

The reservation document contained a contact number which has later been found to be Mubarak namely 0779207730. Thereafter Inshaf had left the hotel after making the reservation in the same three-wheeler bearing number 201-4592 and preceded towards Dam Street.

On the 20th of April 2019, Mubarak had left the safe house at no. 61/02, Nasmiya Villa, Sherrif road, Paraththa road, Panadura in vehicle (Uber) bearing number WP CBD – 8510. Mubarak had entered the Kingsbury Hotel premises around 1929 hours. He had a backpack and a smaller bag with him. Mubarak approached the receptionist's desk at around 1931 hours. He had produced his NIC and had made a balance payment to obtain the key to Room no 819.

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Mubarak entered room no 819 at around 1942 hours carrying a heavy backpack and a smaller bag slung on his arm. Around 2059 hours, Mubarak had left room no 819 carrying the small bag. He then proceeds in the elevator to the basement, comes out of the hotel through the swimming pool area, then he had come to the lobby and had exited the hotel through the main entrance. He walked down Janadhipathi Mawatha towards Galle Face Green. He had taken a Uber taxi of which the details have not been disclosed. There is evidence to the effect that Mubarak had entered the Laugfs Supermarket, Kolonnawa on 20th April 2019 around 2130 hours. He had purchased some packets of TipiTip and a can of Red Bull. Mubarak is spotted on CCTV camera walking along Jayanthi Mawatha to his home namely, No 22/1/1, Jayanthi Mawatha, Kolonnawa around 2326 hours. Mubarak came back to Kingsbury Hotel at around 2347 hours in a three-wheeler the details of which is unknown. He is seen CCTV camera footage crossing the road in front of Kingsbury Hotel and entering the Hotel at around 2347 hours. He had entered room no 819 on 20.04.2019 at around 2351 hours.

On 21st April 2019, Mubarak stepped out of the elevator at 0844 hours and headed towards Harbour Court restaurant, carrying a backpack and a hand-held bag. The COI observed that Mubarak constantly had his earphones plugged to his mobile phone with the earphones inserted into his ears. According to telephone records obtained by investigating agencies, the final call received / taken by Mubarak was at 23:19:52 on 20th April 2019. The call was received from an Uber taxi driver.

He detonated his bomb at 08:47:06 hours on 21st April 2019 at the Harbour Court restaurant of the hotel.

A DNA analysis with his wife and daughter confirmed that the suicide bomber was Mubarak.

As a result of the suicide attack, ten deaths were reported of which 8 were foreigners and 2 locals. A total of 23 injuries were reported of which 7 were foreigners and 16 locals.

2. Shangri-La Hotel

During the reconnaissance on 17th April 2019, Inshaf hailed a trishaw numbered ABC 1019 from opposite Hotel Taj Samudra. He thereafter entered Hotel Shangri-La at 1352 hours and posed as Mohomad Hamzad and made a reservation of Room no. 616 for 20th April 2019. However, he had not provided any document of identification to prove his identity. The data entry form in relation to this reservation indicated the name of the guest as Mohomad Ibrahim Ilham and his address as 658/90, Mahawila Gardens, Colombo 09 bearing NIC number 862442067 V. Consequent to the reservation, Inshaf departed Shangri-La Hotel in a trishaw numbered 201 – 4592 and proceeded towards Kingsbury Hotel.

Thereafter a reconnaissance of the hotel and its environment had been conducted by Zaharan and Ilham on 19.04.2019 as revealed by CCTV footage. They had reached Shangri-La at 07.27 am from Uber Taxi numbered CBB 3681 from R.A. De Mel Mawatha. Both had entered Table One restaurant at 07.29 am and partaken food for the worth of Rs. 5999.90. The position of the table which they chose provided a view of one spot of the explosion which occurred on 21st April 2019. The duo had then spent time from 09.14 am at the lobby in the third floor before leaving Hotel Shangri-La at 09.22 am in an Uber taxi numbered CBC 7819 towards Lucky Plaza, Colpetty.

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Zaharan and Ilham entered Shangri-La Hotel in a Pickme taxi numbered WP PI 9289 at 1956 hrs on 20th April 2019 in order to occupy Room no 616. They arrived at Shangri-La Hotel from No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura. They proceeded to the reception and Ilham's NIC number was provided at the reservation. The details of Zaharan were provided as Azam Mohomad Mubarak bearing NIC number 873340312V (which was given using a Driving License numbered A 019214711).

Ilham checked in with a backpack and a baggage while Zaharan also carried a backpack and a baggage. Both of them checked into Room no 616 at the sixth floor of Hotel Shangri-La on 20.04.2019 at 2011 hours. An invoice had been issued in name of Ibrahim Ilham Ahamed upon cash payment of Rs. 40,611.29 for reservation of room on bed and breakfast basis.

Ilham left the room and hotel in a PickMe Taxi numbered WP CAG 2763 and proceeded to Span Towers, Mt. Lavinia carrying a light backpack. Ilham was next seen entering Hotel Shangri-La (through its CCTV footage) on 21st April 2019 at 0146 hours in an Uber taxi numbered CAY 1549.

On 21st April 2019 CCTV footage shows Ilham stepping out of Room no 616 at 08.08 am and reaching the lobby on the third floor through the elevator. He did not carry any bag at the time. CCTV footage from a different camera shows Ilham going up to the second floor through the escalator at 08.13 am. The same camera portrays him climbing up the escalator back to the third floor at 08.19 am while calling through his mobile. Ilham returned to Room no 616 at 08.21am.

Thereafter, at 08.50 am, both Ilham and Zaharan stepped out of Room no 616 carrying heavily laden backpacks before the duo proceeded towards the

elevator to reach the third floor. CCTV footage from within the elevator shows Ilham and Zaharan shake hands in an apparent exchange of good wishes.

The two of them entered Table One restaurant on the third floor at 08.52 am, where a special breakfast in celebration of Easter Sunday was prepared. Both of them walked into the interior of Table One, where Zaharan is seen to observing keenly the surroundings. Ilham walks in the opposite direction and proceeds towards the escalator connecting the third floor and second floor.

CCTV footage shows the first explosion carried out by Zaharan to have occurred at 08:54:17 on 21.04.2019. Ilham's movevements, as observed from the camera near the escalator, shows him proceeding towards the second floor through the escalator. He climbed the escalator that had stopped with the first blast to merge into the crowd of persons, including children attempting to escape after the first explosion before detonating his bomb.

As a result of the two blasts, 35 persons (13 locals constituting 08 males and 05 females and 22 foreigners constituting 11 males, 03 females and 08 children) died. 34 persons were injured (22 locals and 12 foreigners).

The identity of Zaharan was established by identification of his head by his relatives. The identity of Zaharan was further confirmed by DNA analysis with DNA of his daughter Rudeina and son's DNA (the latter who had died at the explosion which occurred in Saindamardu).

The identity of Ilham was established by DNA comparing his DNA with Yushuf Ibrahim (father), Ismail Ibrahim (brother), Islal Ibrahim (brother), Junaideen Khadeeja Umma (mother) and 10 samples of human tissues found at explosion site of Mahawila Gardens, Colombo 09.

3. Cinnamon Grand Hotel

Inshaf was the suicide bomber. The suicide bomber had checked into Room 425. The DNA analysis done with his father Mohammad Yusuf Mohammad Ibrahim and brothers Mohammad Ibrahim Ismail and Mohammad Ibrahim Ifthal Ahamed confirms the identity.

According to the CCTV camera data Inshaf arrived at the hotel around 19.07.38 on 20th April 2019 with one small luggage. He entered the front office around 19.08.25 and registers giving a false name as Mohammad Assam Mohammad Mubarak. A specific request was made for a smoking room.

He leaves the front office around 19.17.02 and tries to enter Room 425. The room key does not function and he returns to the front office and leaves his luggage with the reception counter and goes out of the main door and speaks to a person in the red colour car by which he arrived at the hotel. He returns to the reception and proceeds to Room 425 around 19.31.23. Inshaf comes out of the room around 20.08.59 and leaves the hotel in a white colour car.

Inshaf returns to Cinnamon Grand on 21st April at 07.05.00 in a blue colour car bearing no. WP CBD 8175 with one heavy luggage which he carries himself. He enters room 425 at 07.09.04. Inshaf requested for a sewing kit around 07.50 which was given by housekeeping. He leaves the room around 08.46.00 and enters Taprobane restaurant and serves from buffet around 08.49. He returns to his room around 08.58.08. Around 09.07.43 he leaves the room and enters Taprobane restaurant again and sits on a chair. A few minutes later at 09.11.28 he gets up and proceeds to the middle of the restaurant and activates the bomb around 09.12.33.

A total of 22 deaths and 17 injuries were reported.

4. St. Sebastian's Church, Katuwapitiya.

St. Sebastian's Church, Katuwapotiya is a Roman Catholic Church in the Archdiocese of Colombo. It is located in Katuwapitiya, Negombo. St. Sebastian saint is known for miracle cures for the sick. The Church celebrated 150 years anniversary in 2018.

Hasthun was the suicide bomber. He arrived at the church from No. 394/A/21 Don David Mawatha, Uluambalama, Katuwapitiya. This house had been rented from 4th February 2019 and occupied from around the 16th of February 2019. It is reported that the goods at this house had been moved out around the 9th of April 2019. Hasthun had arrived at the house on 20th April 2019 around 9 p.m. after taking a trishaw from the Telwatte Junction Negombo.

CCTV footage shows him walking along the road and entering the church. As he crosses the road on to the church a small girl crosses his path and Hasthun calmly touches the child on her shoulder. He goes along the corridor of the church and enters the hall some near the front and blasts him amongst the congregation.

A total of 115 died and 302 were injured as a result of the attack.

A DNA analysis with his parents and brother confirmed that Hasthun was the suicide bomber at St. Sebastian's Church, Katuwapitiya.

5. St. Anthony's Church, Kochchikade

The suicide attack was carried out by Muath.

On 21st April 2019, Muath arrived near the church in van bearing no. WP PJ 4080. It is registered under the name of Mubarak, the Kingsbury hotel bomber. He booby traps the van and gets down wearing a back pack and goes inside the church.

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On 21st April 2019, the Easter holy mass was conducted by Father Jude Joseph Joy Mariaratnam. It was conducted in tamil and began at about 8.00 a.m. The suicide attack took place around 8.45 a.m. Some of the congregation was seated while the other was standing. With the noise of a large blast Father Mariaratnam saw a head flying towards the choir.

The identity of Muath was established by a DNA analysis with his father Ahamadu Lebbe Alawudeen and mother Packeer Mugayudeen Walki.

A total of 56 deaths and 148 injuries were reported.

The booby trapped van was identified only the next after several VIPs had visited the site. It was exploded by the STF on 22nd April 2019 at about 3.26 p.m.

6. Zion Church, Batticaloa

The suicide attack was carried out by Azad.

On 20th April 2019 around 11.21 a.m. Muath (the Kochchikade Church Suicide Bomber and friend of Azad) gave a call from his mobile 077-9814308 to a Kalmunai Bus seat booking agent named Uduma Lebbe Abdhul Aleem on his mobile 0772589057. Muath informed that he intends to book a bus seat from Colombo to Batticaloa.

Then Aleem has called his friend Mohommed Shakeel Bathurdeen who runs a bus seat booking agency in Dehiwala around 11.23 a.m. and made a booking of a bus seat. Aleem then informed Muath about the booking and has given the contact details of the Dehiwala bus agency person Mohommed Shakeel Bathurdeen. Then Muath speaks to Shakeel and gets the booking confirmed and gives the telephone number of Azad.

Azad has made 3 calls on 20th April 2019 at 8.07 p.m., 8.22 p.m. and 8.34 p.m. from the sim recovered from the crime scene to Shakeel.

Azad gets into Colombo-Kalmunai luxury bus EP-MD-2664 in front of Maradana Zahira College. He is carrying two bags. The bus leaves from Zahira College, Maradana bus stop at 20.51 p.m. The bus reaches Batticaloa town at around 02.12 a.m. on 21st April 2019. Azad gets down from Batticaloa town and gets into a three-wheeler at around 02.14 a.m. He proceeds up to Jammus Samman Jumma Mosque, Batticaloa and gets down at around 02.16 a.m. The mosque is situated close to the Batticaloa Courts Complex.

The gates of the mosque are locked. Azad stays in front of the mosque with the two back packs until the gate opens at 4.38 a.m. Before that a Police jeep is seen patrolling the streets in front of the mosque.

Azad goes inside with his two bags at around 4.39 a.m.

Inside this mosque there are 6 rooms which were rented out to outsiders and also there is a general restroom which is designed for people to come and rest. Inside the mosque the suicide bomber Azad goes and keeps his bags in this general rest room and behaves naturally. He uses the wash room and the main mosque to engage in his morning prayers around 5.30 a.m.

Around 8.31 a.m. Azad leaves the mosque carrying the back pack on his back and the other bag on his side.

He arrives at the Zion Church around 8.40 am on 21st April 2019.

He explodes the bomb around 9.03 am. A total of 31 deaths occurred of which the majority were children. A total of 72 injuries are reported.

The death toll would have been higher if not for the brave action taken by Mr.

Ramesh Raju. Mr. Nagaiya Stanely, one of the pastors of the Church was concerned of Azad standing near the door of the Church and requested Mr. Ramesh Raju to politely take him away from the main area. He was able to prevent Azad from coming into the church and exploding the bomb. The COI has recommended to the Government to make a reward payment to the next of kin of Late Mr. Ramesh Raju of the Zion Church Batticaloa for his bravery that led to a minimizing of the death toll.

A DNA analysis done with samples taken from the mother Azad has confirmed that the suicide bomber is Azad.

7. Blast at 658/90, Mahawila Gardens, Colombo 09.

Based on the investigations of the blasts that took place in the morning of 21st April 2019 at three hotels in Colombo, officers of the Colombo Crimes division, proceeded to 658/90, Mahawila Gardens, Colombo 09. This was the house of the parents of Inshaf and Ilham as well as the place where Ilham and family were residing. The officers of the Colombo Crimes division knocked and entered the house and began questioning the occupants.

At the same time three officers from the team went up to the first floor to investigate when there was an explosion at about 14:36. There was a second blast around 14:53. All three officers died as a result of the blast along with Fathima Mohamed Jiffry, wife of Ilham, and their three children. Fathima was pregnant at the time of the blast.

The factual position outlined above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators.

Chapter 15

Tropical Inn Blast

There is much speculation on the failure of the suicide attack at Taj Samudra hotel. Several explanations have been sought to be given ranging from failure for the bomb to explode to decision to abort the attack. The COI has examined the events of this incident and sets out its conclusions.

In order to have a better understanding of the events at Taj Samudra hotel and later at Tropical Inn, Dehiwela the COI closely examined the movements of Jameel from 20th April 2019 to the time of the blast at Tropical Inn, Dehiwela on the 21st of April.

Jameel left his house at Wellampitiya on 19th April 2019 at 9.50 p.m. His wife Omarkatha testified that Jameel informed her he was going on a jamaat pilgrimage. He came to Dinamore restaurant at No. 60A, Dharmapala Mawatha, Colombo 3 around 10.12 p.m. where he ordered several parcels of food and stayed until 10.37 p.m. to receive the order. He then proceeded to the safe house at Paratta Road, Panadura.

On 20th April morning Jameel left the safe house at Panadura at 1050 a.m. by a Uber taxi and came to Span tower at 41,Templers Road, Mt. Lavinia around 11.53 a.m. which was also a safe house. He left the premises around 4.32 p.m. and arrived at Taj Samudra around 4.52 p.m.

Jameel checks in at 4.54 p.m. using the name Mohammad Jameel and gave his address as 49, Welamboda, Kandy. Since he was a walk-in guest the receptionist she checked with the duty manager who had approved the

booking. He had asked for a room for one day with breakfast. Jameel was given room 365. Around 5.44 p.m. he leaves the hotel empty handed and gets into a white colour car (CAP- 2828 Honda Vessel) and leaves the hotel. He arrives at the safe house at Paratta Road, Panadura around 6.30 p.m. Shortly thereafter around 7.00 p.m. Jameel leaves the Panadura house and reaches Span tower by a van bearing No. PJ-4080 around 7.33 p.m. and spends the night there.

On 21st April Jameel leaves the Span tower by vehicle no. CBD 8175 around 6.38 a.m. and arrives at Taj Samudra 7.07 a.m. Around 8.48 a.m. he comes out from his room with a travelling bag and back pack. He goes down to the restaurant and keeps the travelling bag outside the restaurant and enters with the backpack. He first goes near the tables where the food is stacked. The time is around 8.49 a.m. His exact actions during this period are not caught up in any CCTV footage the COI received as evidence.

Jameel sits on a chair in the restaurant around 8.51 a.m. and takes the back pack he is wearing onto his lap and begins to check the outside. Shortly thereafter there appears to be an incoming call on his phone. It is not clear what type of call or who the caller is. But the COI observed that the call came after Jameel started checking his back pack.

Soon thereafter he leaves the restaurant and goes out of the hotel. On his way out he leaves the travelling bag he had kept outside the restaurant by mistake and a hotel staff member comes up and gives it to him. He walks out of the premises and comes onto the Galle road.

Around 8.55 a.m. Jameel hails trishaw bearing No. QW-1890 and proceeds towards Dehiwela. The COI heard the testimony of the trishaw driver Wimalasena Perera. His testimony was that Jameel had told him to proceed towards Dehiwela. On the way Jameel had directed him to stop near Wellawatte. He got down near Commercial Bank Wellawatte and then walked towards the bus halt.

Jameel goes to Tropical Inn by a three wheeler bearing No. ABH 1241. The driver of the vehicle Dewagedera Ranaweera testified before the COI. He said that on the 21st morning he had got a hire to Delmon hospital to take a patient from Dehiwela to Wellawatte. After he finished the hire he made a U turn at Wellawatte junction as he wanted to get back to Dehiwela. There was a bus halt at the point he made the U turn and Jameel got into his vehicle and wanted Ranaweera to take him to a hotel near the Zoo.

Ranaweera knew Tropical Inn since he had taken passengers to this Inn earlier. He took Jameel there around 9.25 a.m. and introduced Jameel to the caretaker of the Inn Sumith Wijelal and left. Wijelal testified before the COI and said that he opened the Inn around 9.25 a.m. that morning when Ranaweera brought Jameel who had chosen a A/C room and paid the price. Jameel had carried two bags, one of which was a back pack. The national identity card of Jameel was taken by Wijelal and kept in the drawer. Jameel informed that he will remain in his room until the following day morning. Jameel then left the reception and entered the room with his bags. After sometime Jameel had left the room and gone out without anything in his hand.

CTV footage shows Jameel coming out of Tropical Inn around 9.35 a.m. He passes 'Cool Baby' shop at No.46 A, Hill Street around 9.38 a.m. and is seen getting into a green colour three wheeler around 9.40 a.m.

Jameel initially arrives at the Muslim mosque on Ebenezar Place around 9.51 a.m. and goes inside. Around 10.03 a.m. he comes out of the mosque and goes to Galle road and takes a three wheeler bearing No. AAT-2112. He proceeds towards Colombo for some time, turns to Ramakrishna Road and comes back to mosque through Marine Drive. Around 10.20 a.m. he goes back into the mosque and sits on the floor. At 10.23 a.m. he gets up and goes out of the mosque. He returns at 10.29 a.m. and around 10.34 a.m. he is seen watching someone's phone with a group of persons. Again around 10.50 a.m. he is seen watching a phone of an unknown person.

Around 11.24 a.m. he is seen seated on the steps of the mosque. A person makes some inquiry from him around 11.30 a.m. Jameel leaves the mosque again at 12.05 p.m. and is seen coming back at 12.15 a.m. and praying. Around 12.24 p.m. a person speaks to him and a minute later Jameel leaves the mosque but comes back at 12.26 p.m. and starts praying again. Jameel leaves the mosque again at 12.41 p.m. and goes back in at 12.42 p.m. Fifteen minutes later he comes out of the mosque again and waits outside the mosque when he is confronted by one Ameer around 13.23 p.m.

The COI obtained the expert assistance of a renowned psychiatrist Dr. Niel Fernando to observe the CCTV footage from the mosque at Ebenezer Place where Jameel stayed as described above. His expert opinion was that the actions of Jameel were of a disappointed man who had failed to achieve his goal.

Ameer was the operations manager of a private security firm Anka Consultant Service, 19/43 1st Lane, Soma Thalagala Mawatha, Delkanda, Nugegoda. Before

that he served as a Police Constable and resigned in 2004. After his retirement he had being a member of the Citizens Committee of the Bambalapitiya Police.

After the initial blasts in Colombo, the head of his agency instructed him to proceed to the places under the firm and give instructions to check the particulars of any person coming in before giving them entry. He went to the mosque at Ebenezer Place around 12.45 p.m. since his superior informed that security must be employed to that mosque. After having examined the premises he came out of the mosque with the administrative officer of the mosque when they observed an argument between a group of around five persons and Jameel near a tree across the road.

Ameer went to the place and inquired the reason for the argument. The group of persons said that Jameel had been inside the mosque for a long time and that they did not know him and as such they had asked Jameel to leave at which point an argument had occurred. It was mentioned that Jameel had not even showed the national identity card. Ameer informed everyone that due to the situation in the country they are going to close the mosque. Ameer then spoke to Jameel and made inquiries at which point Jameel questioned whether Ameer was from the Police. Jameel is questioned by Ameer around 1323 outside the mosque.

Ameer then showed Jameel an identity card he received from the Interpol during his days in the Police. Jameel then gave his driving license. Ameer realized Jameel was from Kandy and asked him what he was doing in Colombo. Then Ameer wanted to call Jameel's house to check on the veracity of the details provided by him.

Ameer then called Jameel's wife Omarkatha on his own phone and obtained details of Jameel. The wife informed that he had left the house due to a disagreement. Ameer obtained the details of Omarkatha and recorded all in the book he had with him. After satisfying himself of the identity of Jameel and his wife Omarkatha, he allowed Jameel to leave.

Then Jameel got into three wheeler bearing number WP ABR 5353. He signaled the driver to proceed towards the Galle road. Once they were on Galle road he had signaled him to proceed towards Kalubowil hospital side and continued to direct him by hand signals. After some time he directed the driver to stop and got down. This version of events is confirmed by the testimony of the driver Mohammad Nilwan.

After about three minutes of Jameel leaving, Ameer received another call from the same number as of Omarkatha. Ameer was informed by a man in tamil to detain Jameel as they want to come and pick him up due to the family dispute. Ameer informed him that he cannot do so as he has other work to do and that in any event Jameel had left the place.

Ameer then went on his errands and around 5 p.m. received a call from an unknown number and was informed that it was from intelligence division of the Ministry of Defense. The voice was the same voice of the person who spoke to him in tamil after Jameel had left from Ebenezer place. Ameer was asked to come to the Wellawatte Police station. There he met the person and realised that they were from the DMI.

The call records of Ammer and Omarkatha are compatible with the narration of events of Ameer. The COI summoned several officials from the DMI. Their

testimony was that the DMI was keeping Jameel under surveillance from around 2016 for his extremist ideology. In fact due to the information that was provided by the DMI, Jameel was questioned by the TID in April 2018. Soon after the explosions in Colombo and suburbs, acting on nistructions the DMI operatives went to the house of Jameel at Lansiyawatta, Dematagoda to check on his whereabouts and that is when they were told by Omarkatha that Jameel was at Ebenezer place. The DMI operatives then called Ameer and tried to locate Jameel by which time he had left the mosque.

The COI heard evidence of all relevant parties and concludes that the events as narrated by Ameer and the DMI officials reflect the true state of facts. On the available evidence, there is no evidence of Jameel meeting any intelligence operatives before the blast at the Tropical Inn.

The COI sought expert evidence from a retired Government Analyst on the actions of Jameel at Taj Samudra and later at the Tropical Inn. He was questioned on whether there is a possibility for the blast not to take place at first when an attempt is made and for it to happen after about four hours.

His expert opinion was that it is possible if the detonator used was of inferior quality or if there was a defect in the circuit such as not been properly connected, or if the battery is not connected correctly.

If there was any person or group desirous of killing Jameel by such a remote controlled bomb, surely they would not have waited for more than four hours from the initial blasts in the churches and hotels. During this period Jameel freely travelled in at least two trishaws and checked in to Tropical Inn with the bag carrying the explosives. There was no explosion up to that time.

Jameel was one of the prime actors in the attack and was privy to many details of the attack. Why would the person or group desirous of killing Jameel by a remote controlled bomb wait for such a long time to activate the bomb by remote control? If Jameel was given a signal to withdraw from the attack, why was he allowed to freely move about with his knowledge of the plans? A group that had planned so precisely for the attack would surely have had a plan to evict the suicide bombers from the sites without any third party intervention in the event they had planned previously to abort the attack.

However, CCTV footage seen by the COI shows that Jameel walked out of Taj Samudra hotel and tried to hail a trishaw while standing in front of the hotel on the land side. Several trishaws passed by without stopping. Then a trishaw that was travelling on the other side of the road (sea aide) from the Galle Face roundabout towards the Central Bank area did a U-turn and came and stopped by Jameel who got in. Then he travelled up to the Wellawatte junction and got down.

Thereafter he hailed another trishaw and asked him to go towards Dehiwela. On the way, he asked the trishaw driver whether there are any lodgings close to the Zoo. The trishaw driver knew of the Tropical Inn lodging as he had previously taken customers to that place. That is how Jameel came to Tropical Inn.

Later he walked along the main roads in Dehiwela and Wellawatte and went to the Mosque in Wellawate and came back to Tropical Inn in another trishaw. There was heightened security and alertness, as evidence from the incident involving Ameer and Jameel at the mosque in Wellawatte, after the morning blasts. It is inconceivable that a group as organized as it was to carry out the

attack would have given Jameel the freedom he was given up to the time of the blast at the Tropical Inn.

The factual position set out above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of experts and investigators.

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Chapter 16

Profiles of Key Individuals

There were several individuals who played important roles in the activities of Zaharan's group. This chapter seeks to identify the individuals and their role in the activities of the group. The details of Zaharan are not set out in this chapter as they have been dealt with in detail in Chapters 7 to 11.

1. Mohammad Ibrahim Mohammad Naufer

He was known as Abu Shaid within Zaharan's group.

He was born on 30th November 1978 in Kattankuddy. His father is Mohammadu Musthapha Mohammadu Ibrahim and the mother Ibrahim Nichmattu Nachchi.

He had his early education at Meera Balika School, Kattankuddy, Central College, Kattankuddy and Jamiyal Falahi School Kattankuddy up to Ordinary Level Examination. Then he went to Islahiya Arabic College, Madampe, which is operated by the SLJI organization, and studied up to Advanced Level Examination. At the same time he followed a course there to become a moulavi.

It is at Islahiya Arabic College, Madampe that Naufer was exposed to Islamic extremism. He was taught about the establishment of an Islamic State and was shown videos depicting the problems faced by the Muslims in Afghanistan, Bosnia and Chechnya. He was taught that weapons training are mandatory. Every year the students were taken to the jungle and given training in camps. He was appointed as a publicity officer of the SLJI. The time period of this activity is most probably in the 1990s.

From 2000 to 2004 he learnt Arabic Culture at the South Eastern University.

According to one witness Naufer turned towards Thowheed due to the influence of Ehiyas Ilmi who was a salafi follower. According to the same source, Naufer was the first Sri Lankan to start posting on FB about the ISIS ideology.

He married Mohammad Siththi Hajira in 2003. She was a sister of the mother of Hadiya, wife of Zaharan.

Naufer met Zaharan probably around 2004 when Zaharan was attending Jamayathul Falah madrasa in Kattankuddy to learn Islam. Naufer began to influence Zaharan towards wahhabism.

Around 2005/2006 Zaharan started an organization named Daarul Adhar ad Da'iyyah in Kattankuddy which is wahhabist. Zaharan and Naufer together with Nashmal moulavi, Ashfar moulavi, Rauf and Thawfeek were at Daarul Adhar ad Da'iyyah. According to Hadiya Naufer and Zaharan fell out before Naufer proceeded to Qatar in 2008.

In 2006 Naufer proceeded to Qatar and returned in six months' time. He then started working as a teacher at Amana International School and went back to Qatar in 2008 and worked there until 2016 when he returned to Sri Lanka. During his stay in Qatar he used to come to Sri Lanka generally around once a year. He worked as a translator in a law office.

He came in contact with Milhan and Hasim Ahamed through the facebook. He met Milhan in Qatar on a few occasions and discussed IS activities with him.

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Naufer returned to Sri Lanka in July 2016 and became friends with Zaharan again. Later around October 2016, Naufer gave a pen drive to Zaharan containing IS videos of beheading. This evidence given by Hadiya fits with the timing Zaharn began posting IS material on facebook.

Naufer took part in the first training camp held at Rambewa, Medawachchiya in November, 2017 where around 14 persons including Zaharan, Naufer, Anzar, Rizvi, Risvan, Abdeen, Ramiz, Milhan, Hasthun and Rilwan took part.

Members of the JMI group came and met Naufer at his home and informed that some members of the group had attended lectures by Nilam and that Umair has gone to Syria and returned. They wanted all to join hands rather than acting separately. Naufer was informed that they had previously met Zaharan.

Naufer took part in all the training camps organized by Zaharan and lectured on IS ideology and its activities.

In January 2019 Zaharan gave Naufer money to be given to the families of the suspects arrested in relation to the attack on Buddha statues at Mawanella. Zaharan was given this money by Ilham. Naufer went to Puttalam with his wife and gave money to the family of Mufees who was in custody. He recovered the laptop of Zaharan from Mufees's wife and handed it back to Zaharan.

The evidence is that Naufer was appointed as the second in command of the group by Zaharan. However the role played by Naufer is more closely connected to the theoretician of the group. Zaharan had instructed Naufer to stay at a different place to where Zaharan and the others were staying for the safety of the organization. He was given a 9 mm pistol at the safe house in Enderamulla by Zaharan.

He is presently in custody.

2. Mohammad Cassim Mohammad Rilwan

He was known as Abu Jal Al Quittal in Zaharan's group. Apparently the name in Arabic means "the killer".

Rilwan is one of the brothers of Zaharan and worked closely with him from the inception. He was attacked by the supporters of M.L.A.M. Hisbullah in the aftermath of the appointment of Mr. Hisbullah as a national list Member of Parliament from the Sri Lanka Freedom Party in August 2015.

Rilwan experimented with using a drone. A video of this attempt was found after the 26th of April 2019.

He had acquired knowledge of the making of bombs through the internet. In August 2017 he suffered grievous injuries in experimenting with explosives and lost most fingers in both arms and grievous injury to his left eye. He was testing some explosives with a timer when the explosion occurred.

He took part in a majority of the training camps organized by Zaharan and performed the duties of keeping guard.

After the Digana and Theldeniys incidents, Milhan and Rilwan requested Mohomed Shifas Saththar to find them some swords which was done and the swords were sent to Beruwela and Kurunegala areas.

In March 2019 Rilwan purchased 8 barrels of Nitrate Acid each weighing 35 kilos from Kattankuddy and transported in a white van.Between 2018 and 26th April 2019, he obtained and activated a large number of SIM cards using false identity cards. All the purchases were made in Katankuddy.

Rilwan died in the explosions at Saindamarudu on 26th April 2019.

3. Mohammad Cassim Mohammad Shaini

He was known as Abu Mukathil in Zaharan's group. He is a brother of Zaharan.

Born on 4th November 1988, he attended Al Amin Vidyalaya, Kattankuddy from Year 1 to 5 and Central College, Kattankuddy from Year 6 to 8. He then left school and joined Kattankuddy Jamayathul Falah Arabic School in 2000 and studied the Qur'an until 2007. From 2008 January to end of 2011 he studied Islam at Ibunu Umar Arabic School, Wattala.

Thereafter he worked there as a teacher from January 2012 December 2013. He left there in early 2014 and worked as a teacher at the Madrasa of the NTJ in Kattankuddy.

Shaini was with Zaharan from the inception of the group. He published pro-IS material on facebook.

He was arrested over the incident at Aliyar junction on 10th March 2017. While in custody, he continued to preach on Islamic extremism to his fellow inmates at the Batticalo prison.

Shaini died in the explosions at Saindamarudu on 26th April 2019.

4. Mohomad Ibrahim Ilham Ahamed

Ilham was known as Abu Bara in Zaharan's group.

Ilham was one of the main financiers of Zaharan and group along with his brother Inshaf. Around 2018 Zaharn and he discussed about sending Rs. 200 million from Sri Lanka to Syria by boat.

The extent of extremism of Ilham can be fathomed by the fact that he did not send his children to school but taught at home, no immunization was given to

the children, did not attend even the marriage ceremony of his wife's brother and the recovery of extensive extremist religious books from the house after the attacks.

He did not have any criminal record.

Ilham is from a wealthy business background. His father Mohomad Yusuf Mohomad Ibrahim is a spice trader who ran a spice exports business named "Ishasna Export".

After the Easter Sunday attack, a sword was recovered from his warehouse at "Dolphin", Buttala Road, Badalkumbura.

He was the suicide bomber who attacked Shangri-La hotel with Zaharan.

5. Abdul Latheef Jameel Mohamed

Jameel was called Abu Hamza within Zaharan's group.

He was born on 18th December 1982 in Kandy. His father is Abdul Razak Abdul Latheef, who died in 2010, and mother is Samsudin Hidaya. There were 4 girls and three boys in the family. Jameel was the sixth.

He attended Welambada Tamil School from Grade 1 to 6 and then attended Gampola International School, Mariyawatta from Grade 6 to Ordinary Level Examination. Then he went to Royal Institute to do the Advanced Level Examination.

Later he went to Asian Aviation Center, Ratmalana to follow the HND course in aeronautical engineering. He proceeded to UK in 2007 to complete the course and returned to Sri Lanka in 2008.

He got married to Fathima Shifana Omarkaththa on 4th April 2008. They have four children.

Jameel and his wife proceeded to Australia in 2009 with a view to obtaining permanent residency as one of the brothers of Jameel, Abdul Latheef Yaslim Mohomed was residing there. He studied there for two years on a student visa and followed a course in manufacturing technology and thereafter worked as an engineering designer for about a year and returned to Sri Lanka in 2013.

While he was in Australia, Jameel attended the Alfurkhan mosque where he got to know a Haroon moulavi and Aroos.

The association with Haroon moulavi brought about a radical change in Jameel. He started growing a beard and stopped listening to music and watching movies and advised his wife also to do so as it is against the teachings of Islam. This change began around 2011.

He had close connections with Mohomed Muhusin Sarfas Nilam, whom he met the first time at the ACTJ mosque at Mallikarama Road, Dematagoda around 2014. Nilam and Aroos were relations. Both Nilam and Aroos proceeded to Syria to join the IS. Nilam was the first Sri Lankan to have been killed in Syria while fighting for the IS. Jameel and Omarkatha attended a farewell lunch for Nilam before Nilam proceeded to Syria.

On 12th November 2014 Jameel flew to Turkey in TK 31 with his brother Hakeem on business work returned to Sri Lanka on 19th November 2014 on TK 731. Upon his return he got involved in the tea export business of his brother Latheef Hakeem Mohomed. Thereafter Jameel applied to go to Turkey twice but the visa application was rejected. He wanted to go to Syria through Turkey and join the IS.

Jameel was a firm believer that he should live in a Muslim state. He strongly believed in the Caliphate declared by the IS. He wanted to travel to an Islamic State (hijrath) where Sharia law was enforced. Jameel was the link Zaharan had to the IS through Aroos until early 2019.

From the end of 2015 he was preaching on creating an Islamic State in Sri Lanka. Jameel used to listen to the lectures of Anjam Choudry, the Islamic extremist preacher from UK.

Jameel played a leading role in the formation of the Colombo based JMI although he was not appointed its leader. This led to disagreements with Umair Mohammad, the leader of the JMI. Zaharan organized a seminar at Panda Sports Center, Malwana to bring about a rapprochement between Jameel and Umair.

Jameel went to Meccca with Ilham in 2017 for ten days and the trip was sponsored by Ilham.

In July 2016 the IGP was informed by Director, SIS that Abdul Latheef Jameel Mohomed was a person who was facilitating the travel of Sri Lankans to Syria and Iraq to join the IS.

In November 2017 the Director SIS wrote to the IGP giving the bio data of Jameel, details of his extremist views and activities and his desire to see Sri Lanka converted to an Islamic State or to migrate to an Islamic State. This was forwarded to DIG TID Nalaka De Silva who directed investigations into it. Jameel was questioned by the TID on 12.04.2018 and a statement recorded. Specific questions were put to him on whether he is a IS supporter and propagates the ideology of the IS, his desire to join the IS and whether he

desires to live in an Islamic State. Jameel whilst denying the other suggestions did reply that he likes to live in an Islamic State.

The TID sent 8 periodic reports to the IGP on Jameel prior to the Easter Sunday attacks. Amongst the matters reported is that Jameel got to know Nilam, who was killed while fighting for the IS in Syria, at a mosque down Mallikarama Road. All these reports indicated that the investigations did not reveal Jameel to be a person holding extremist views. It was also reported that no material was found to confirm that Jameel had close connections with Nilam. The last report was dated 10th April 2019 wherein it is said that there is no information of any extremist activity of Jameel.

However, at least from December 2016, the DMI had identified Jameel as a religious extremist and kept him under surveillance. This intelligence was reported to the Army Commander. The Director DMI testified that the extremist activities of Jameel were mentioned at intelligence coordinating meetings and at the NSC.

Jameel was a member of the JMI international whatsapp group between 2014 and 2015. People who follow Ibrahim Nabhi's ideology are known as Jamaathai Millathi Ibrahim.

On 19th April 2019, Jameel informed Omarkatha that he was going out with some friends and got her to pack him some clothes in the carry-on bag he bought. He left home around 10 p.m. in a trishaw. As the children were sleeping, he kissed them on their faces and kissed his wife on her forehead and said goodbye.

Omarkatha got a whatsapp voice message from an unknown number around 8.30 a.m. on 21st April. It was from Jameel who had informed that he had lied

about going on hijrath and that he was going to meet Allah and that the message can be shown to the Police. She tried taking a whatsapp call to that number but there was no answer although the phone rang.

Jameel died in the explosion at Tropical Inn, Dehiwela on 26th April 2019.

5. Hayathu Mohammadu Ahamadu Milhan

He was known as Abu Sila/Abu Halith within Zaharan's group.

Milhan was born on 18th July 1989 in Kattankuddy. His father is Adam Lebbe Hayathu Mohammadu and mother is Mohammadu Cassim Siththi Najima.

He studied at Meththai Mosque School in Grade 1, Baduriya School, Kattankuddy in Grade 2, Al Ahamin Maha Vidyalaya, kattankuddy from Grade 3 to 5, Kattankuddy Maha Vidyalaya from Grade 6 up to Advanced Level Examination. He sat for the examination in the Commerce stream and obtained three credit passes.

Around 2006 Milhan made contact with Razik Mohammed Faiz aka Police Faiz who was at that time working as an intelligence agent for the Sri Lanka Army in the fight against the LTTE. During that period Muslim youth were being recruited as intelligence agents due to their proficiency in tamil. Thereafter Milhan worked with Police Faiz as an intelligence agent of the Sri Lanka Army. In 2007 Police Faiz had given training to Milhan in the use of a T-56 weapon by showing how to remove and fix it. He also took Milhan and some other youth to the jungle and gave physical training. One of them is also in custody over the Easter Sunday attacks. This experience undoubtedly helped Milhan to conduct weapons training at the training camps organized by Zaharan.

In 2009 Milhan followed a two year course in Medical Laboratory Technician course at Prof. Jayasuriya Memorial International School, Maradana. From 2010 to 2011 he worked at Sipa Clinic, Kattankuddy and joined Nawaloka Hospital in 2011 as a Laboratory Technician.

Milhan proceeded to Qatar in 2012 and worked as a medical representative for about one and a half years. He returned to Sri Lanka in June 2013. He worked for about 8 months in Sri Lanka and returned to Qatar in 2014.

Milhan met Naufer on a few occasions in 2016 in Qatar having first made contact on the facebook. Around late 2015 Naufer had been critical of the IS. However by 2016 he was publishing letters on social media supportive of the IS. It was Naufer who made Milhan a supporter of the IS ideology. He told Naufer that there are injustices been done to the Muslims in Sri Lanka and that they must rise against it.

In 2017 Milhan returned to Sri Lanka. He was a friend of Rilwan from school days. Rilwan one day called him and got him to speak to Zaharan who spoke to him about the Digana and Aluthgama incidents and the need to have a meeting. They met and Zaharan informed that Naufer will inform him the details of the meeting. Thereafter based on the intimation made by Naufer, Milhan attended the training camp held in November 2017 at Rambewa, Medawachchiya at the house of Abdul Latheef Mohommed Shafi. The participants gave a pledge to the IS flag.

Thereafter he acted as the weapons trainer at about 12 to 13 training camps conducted by Zaharan out of total of 16 to 17.

After the Digana-Teldeniya incidents Inshaf Ahamed took the view that Muslims cannot always be at the receiving end and started gathering swords.

He sought the assistance of Mohomed Shifas Saththar. He provided Inshaf with some swords produced at Kurunegala and Negombo. Later he bought some from shops as well and gave to Inshaf.

Later on Milhan and Rilwan requested Mohomed Shifas Saththar to find them some swords which was done and the swords were sent to Beruwela and Kurunegala areas. The Masjid Dul Cader Jumma Mosque was given 50 swords with the participation of Moulavi Mohomed Ghouse Mohomed Farhim and Mohomed Arshad who was a MMC of the Colombo Municipal Council.

Milhan had taken part in the killing of the two Police officers at Vavunativu on 30th November 2018 in order to obtain their weapons as well as the attempted murder of Mohommed Razik Mohammed Thaslim on 9th March 2019.

In fact he had played an important role in establishing the training camp at Wanathavilluwa. He was also involved in preparing explosives at Wanathavilluwa and the Negombo safe house with Hasthun and Rilwan.

Milhan and Rilwan were involved in procuring chemicals used in the manufacture of bombs from Pettah in May 2018. He was having connections with an IS operative in Syria Abu Dawud Hasaki aka Abu Suleiman who acted as a hawala operator in the illegal financial transactions network.

Milhan is presently in custody after his arrest in Qatar after the Easter Sunday attacks.

6. Mohomed Ibrahim Sadeeq Abdulla

He was known as Abu Umar within Zaharan's group.

Sadeeq studied at Delgahagoda School and then at Zahira College, Mawanella in the Maths stream (tamil medium). He holds a B.Sc. in Management from the University of Dublin, Ireland through the ICBT Campus, Kandy.

During his school days he got involved in the activities of the SLIISM. After his Ordinary Level examination he attended the five-day course at Hingula Oya mosque, Mawanella. Thereafter he attended the seven-day course after the Advanced Level Examination.

Later he became an active member of the SLIISM and took part in several social service projects like flood relief, blood donation camps and other activities and held several posts. He was appointed as the Coordinator of the Sabaragamuwa Province in 2012 and later functioned as the National Organizer from 2013 to 2015. This was a full-time position and he was paid a monthly stipend starting from Rs. 18,500/= which was increased to Rs. 25,000/= by 2015.

Sadeeq got an opportunity to travel to Turkey in 2014 through the SLJI and then went to Syria and underwent arms training. It was one Ahamed Munshif, the national organizer of SLIISM in 2011, who spoke to him about this opportunity and implied that there is an opportunity for arms training in Syria. He got Sadeeq to meet a foreigner by the name Abu Abdulla at the head office of the SLJI who spoke to him about the opportunity. Abu Abdulla is Lukman Thalib Ahamed. It was Abu Abdulla who came to pick up Sadeeq when he arrived in Turkey in May 2014 and took him to the accommodation. The ticket

for the journey was given to Sadeeq by Sufian who was the leader of the SLIISM at that time.

Sadeeq stayed in Istanbul for about two months but did not attend the course he was registered for since he did not understand the language. All expenses were met by Abu Abdulla. During this stay he met another SLIISM activist Irfan.

Thereafter Sadeeq was taken to the Turkish-Syrian border where he crossed into Syria and was taken to Aleppo. There he stayed in a large house which was somewhat damaged due to the war and stayed with about twelve other participants. They underwent a forty-day training program which included physical and tactical training including weapon training. Sadeeq was in Syria for about 56 days and returned to Turkey and within two days came back to Sri Lanka around October 2014.

Sometime in mid-2015 it became public that a Sri Lankan by the name Mohomed Muhushin Sarfas Nilam aka Abu Surai Seylani was killed in Syria while fighting for the ISIS. Soon thereafter, certain officials of the SLJI met Sadeeq and informed that he will be expelled from the SLJI as if it became public that he went to Syria and underwent training it will reflect badly on the SLJI.

In 2015 he married and started a farm. According to Sadeeq, in March 2018 he sees a video of Zaharan on social media where he advocates that Muslims must fight back and that revenge must be taken against the Buddhists for the anti-Muslim acts committed. He met Zaharan after about a month of the Digana incident. Zaharan informed Sadeeq that they are connected to ISIS.

He took part in two training camps conducted by Zaharan, each one was of a two-day duration, in Nuwara Eliya in June 2018. They were shown a T-56 weapon.

In addition he conducted training camps on his own. One was at Thoppur, Nallur, Muttur in November or December 2017. This was conducted by Sadeeq and attended by about 6 people. So far there is no evidence of Zaharan having taken part at this training camp. Sadeeq had given a practical demonstration of removing and loading of the T-56 weapon. The house used for the training belongs to Haja Mohideen a friend of Sadeeq. It was a one day camp.

Sadeeq conducted another camp at Hairiya Masjid Thowheed Mosque at No. 130/B, Delgahagoda, Hingula from 14th to 18th December 2018. He was assisted by his brother Shahid. It was a residential camp for around 30 children who were due to sit for the O/L examination from Mawanella, Kadugannawa and Delgoda. The lectures were on the IS. The participants were shown a small child being killed by the IS. The Digana incident was also mentioned and the participants instructed that if attacked they should also attack.

He is presently in custody.

7. Achchi Mohammadu Mohammadu Hasthun

He was known as Abu Mohammed in Zaharan's group.

He was born in 1994. His father is Usanar Hajji Mohammadu and mother is Abdul Latheef Ravuman Umma. They are residing in Valachchenai. He has two brothers and one sister.

He sat for the Advanced Level Examination in tamil medium from Central College, Kattankuddy in the science stream.

He got to know Zaharan through videoing of his lectures in Kattankuddy. He joined the NTJ in 2015. He took part in many of the training camps organized by Zaharan and provided lectures on the use of weapons and explosives as well as using telephones without getting detected by law enforcement authorities.

Milhan acquired a good knowledge of making bombs through the internet. He was involved in the making of the bombs used for the suicide atatcks. The instructions were in English and at time he sought the assistance of Sara to understand the meaning.

He married Sara.

He called his family last in February 2019. He was the suicide bomber at St. Sebastian's Church, Katuwapitiya.

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8. Ahamed Lebbe Mohomed Niyas

Born in 1982, he studied at the Central College, Kattankuddy from Year 1 to Year 10 and later joined the military intelligence.

He acted as an independent journalist in Kattankuddy area and maintained two websites, namely Vaara Uraigal and Sri Lanka Muslim World Press. He was also repairing mobile phoned and laptops. He was fluent in five languages including Arabic. After the Aliyar junction incident having fled the area, he is later reported to have gone to Baharain and returned to Sri Lanka around December 2018.

It is reported that he was acting as the South Asisn agent for recruiting members to the IS.

He was part of the jihad movement active in Kattankuddy area from 1997. From 2004 he had maintained connections with the military intelligence. In 2007 he proceeded to Kuwait for employment and returned to Sri Lanka on 31st June 2016. Later he joined the NTJ worked closely with Zaharan.

He was killed at Saindamarudu on 26th April 2019.

9. Mohomad Assam Mohomad Mubarak

Mubarak was known as Abu Abdulla in Zaharn's group.

He was born and raised in the area of Bandaranaiyake Mawatha, Colombo 12 and had attended Alexandria International School, Maligawatte until the Ordinary Level examination. He had engaged in a shoe business, which had caused him to be indebted to several persons.

He lived a hidden life due to his debts. 14 mobile numbers had been identified thus far as numbers used by the suicide bomber, of which 11 had been taken in

his own number while three were registered in name of other individuals. Mubarak had rented out safe houses and had purchased a van and had 32 bank accounts in his name.

Mubarak did not have any criminal records. Details of two passports (numbered N 6725891 and N 1782827) belonging to Mubarak shows that he had travelled to several countries Saudi Arabia (2006 and 2015), India 2012, Pakistan 2013, Bangladesh 2016, UAE 2017 and China 2018.

Mubarak participated in the dry run, the motor cycle explosion at Kattankudy on 16.04.2019. He had functioned as the driver of Zaharan on several occasions.

He was the suicide bomber who attacked Kingsbury Hotel.

10. Moommed Nazar Mohamad Azad

He was known as Aka Abu Mukthar within Zaharan's group.

Azad was born on 5th November 1985 in Ariyampathi. His father was killed by the LTTE when fishing. His wife is Abdhul Raheem Ferosa.

He was in Qatar from 2005 to 2010 and 2010 to 2012.

Azad was the suicide bomber who attacked the Zion church, Batticaloa.

The factual position set out above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators and intelligence agencies.

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Chapter 17

Foreign Involvement

Several witnesses testified that the attacks were not carried out by Zaharan and his group alone but that there was a foreign hand behind the attacks. However none of them provided any evidence to assist the COI in inquiring into this aspect other than the mere *ipse dixit*. The following witnesses impliedly or expressly testified that there is an external hand or conspiracy behind this attack:

1. His Eminence Archbishop of Colombo Malcolm Cardinal Ranjith
2. President Maithripala Sirisena
3. Former Minister Rauf Hakeem
4. Former Minister Rishard Bathiudeen
5. Former Governer Asath Salley
6. Mr. Mujeebur Rahuman M.P.
7. Mr. Nilantha Jayawardene, Former Director SIS
8. Mr. Latiff, SDIG, Commandant of the STF (retired)
9. Mr. Ravindra Wijegunaratne, CDS (retired)
10. Senior DIG /CID Mr. Ravi Senevirathne (retired)
11. Mr. Shani Abesekera, Director CID (under interdiction)

Yet the COI sought to investigate and inquire into this issue with the resources and power it possessed.

One reason attributed to the assertion that Zaharan was not the real leader of the group that carried out the attack is that he himself committed suicide with the other attackers. It was said that nowhere in the world, has a leader of a terrorist outfit taken part in a suicide attack at the outset. On this aspect the COI had the benefit of hearing evidence of a meeting that took place on 25th March 2019 where Muath informed Sameer of a dispute between Zaharan and Naufer and the need to have a discussion. Two days later, on 27th March 2019 Sameer and two others, currently in custody, met Muath and Jameel and travelled to the house at No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura. When they arrived there Zaharan and Hasthun were there.

After Zaharan outlined his plans for the attacks, he informed the participants that he will also take part in the suicide attack similar to the suicide attack carried out by the leader of the IS group in Bangladesh.

Zaharan appears to have been referring to Tamim Ahmed Chowdhury, known by his kunya Abu Ibrahim al-Hanif, and the emir of the Islamic State in Bangladesh. He was the mastermind of the July 2016, Dhaka attack at the Gulshan café which resulted in 29 deaths. Zaharan mistakenly believed that Tamim had died in the attack when in fact he did not. Yet the COI has no reason to doubt this part of the testimony of what transpired on 27th March 2019 at No. 61/02 Nasmiya Villa, Sheriff Road, Paratta Road, Panadura.

In fact there is corroboration of this position by the evidence of Sadeeq who testified that Zaharan had expedited his plans for a suicide attack after the

discovery of explosives in Wanathawilluwa. The discovery led to the arrest of Zaharan's brother-in-law Anzar for having taken part in transporting the explosives to the camp. On the same day, CID officers arrived at the house of Hadiya and recorded a statement. Within two days Zaharan extricated Hadiya and family to one of the safe houses. From then onwards he kept the family always on the move at different safe houses. Zaharan appears to have been concerned of an imminent prospect of being discovered and arrested.

Director SIS Nilantha Jayawardena is the only witness to have testified impliedly about the identity of a possible foreign involvement. He testified that an Indian named Abu Hind was a possible foreign participant who may have triggered the attack. He went on to imply that the intelligence agencies that provided him with the intelligence on 4th, 20th and 21st April 2019 may have had a hand in the attack.

The COI has given close consideration to this allegation on the evidence before it.

Hadiya testified that from around the end of 2017, Zaharan was in contact with one Abu Hind who was in India. Naufer also knew and communicated with Abu Hind. Zaharan told Hadiya that Abu Hind has links to Syria. They used to speak in tamil using threema and telegram apps. They used to send each other voice recordings. Abu Hind used to inquire about Zaharan's safety. Abu Hind used to send voice recordings of some of his sermons. Once he sent Zaharan details of a suicide attack carried out by a 15 year old child in Syria. At the same time Zaharan also used to chat on messenger with people in Qatar and Saudi Arabia.

The COI heard evidence which gave an indication as to the identity of Abu Hind. The evidence came from an international expert on terrorism who

wished to testify in camera due to the sensitive evidence. The COI allowed the application.

According to his testimony, Abu Hind was a character created by a section of a provincial Indian intelligence apparatus. The intelligence that the Director SIS received on 4th, 20th and 21st April 2019 was from this operation and the intelligence operative pretending to be one Abu Hind. Operatives of this outfit operate in social media pretending to be Islamic State figures. They are trained to run virtual persona.

The reason for this operation was, according to the expert, that Indian nationals who travelled to Syria used Sri Lanka for transit. They had also trained in one of the madrasahs in Negombo, Chilaw and Puttlam areas. In fact the COI during its inquiry observed evidence that Indian intelligence officials had previously informed the SIS of Al Kama madrasah in Kochchikade as an institution attended by several Indians who had travelled to Syria to join the IS. In fact an Indian national who took part in a suicide attack in Afghanistan had previously been to Sri Lanka.

The testimony was that Zahran believed Abu Hind was the Islamic State regional representative. Abu Hind was in touch with both Zahran and his brother, Rilwan and had spoken to Naufer. This part of the evidence is confirmed by the testimony of Hadiya.

According to the testimony of the expert, Zahran was very careful in not divulging the entire plan to Abu Hind. With Abu Hind, Zahran shared his intention to attack the Indian High Commission in Colombo. The day before the Easter attack, operatives of this branch through the usual channels informed

the Director SIS that only one church and one hotel was the target. The information this operation was getting was not comprehensive and on occasion, partial or inaccurate. They once said that one house was booby trapped. This was inaccurate. They were aware of the explosive laden vehicle. This was accurate.

In fact the intelligence that Director SIS got about the explosive laden vehicle after the blasts on 21st April 2019 morning was from this source. It turned out to be correct with the detection of the explosive laden van near St. Anthony's Church, Kochchikade.

Director SIS testified that the intelligence given on 4th April 2019 was not reliable when one considers that the Indian Secretary of Defence Sanjay Mitra and delegation visited Sri Lanka on 7th April 2019 to attend the Indo-Sri Lanka Defence Dialogue held on 8th April 2019. He questioned whether the Secretary of Defence of India will visit the country if there was in fact a security threat as informed on 4th April 2019.

The expert witness in response to this position testified that the Indian Central Government was not aware of the intelligence obtained by the provincial outfit.

The COI observes that although the Director SIS took the position that even the Indian High Commission did not take the intelligence given on 4th April 2019 seriously, the evidence is that on 12th April 2019 the Indian counterpart who provided the input on 4th April 2019, requested the SIS Director to speak to the IGP in order to get a pilot car for the Indian High Commissioner as he was due to travel outstation during the weekend. It was said that this request is being made in view of the input they had received about truck attacks. This shows that the Indian Embassy was taking the intelligence provided seriously

although the position of the Director SIS was that even they were not sure of the reliability of it.

Conversely the suggestion was made that the visit by the Indian Secretary of Defence was a diversion from the intelligence provided on 4th April 2019. According to the evidence before the COI, the Indo-Sri Lanka Defence Dialogue is an annual event and in 2019 it was to be hosted by Sri Lanka. The event was to be organized by the CDS. In November 2018, the MOD of Sri Lanka suggested to the CDS that the event can be organized in January 2019. The response was that time was not sufficient to organize the event in such a short time. Then the MOD suggested that it be held in February or March 2019. After the CDS approved dates in March, 2019, the MOD wrote to the Indian High Commission in Colombo proposing the dates. The Indian High Commission responded by proposing 8th and 9th April 2019. These dates were agreed between parties. Pre-discussions were held on 12th March and 4th April 2019. After the Defence Dialogue the Indian delegation left Sri Lanka on 10th April 2019 to Bangladesh.

Based on the evidence before it, the COI does not see any credibility in the suggestion that the visit by the Indian Secretary of Defence was a diversion from the intelligence provided on 4th April 2019. The Indian counterpart of Director SIS informed him that the source of the intelligence provided was a live source. The intelligence was precise and actionable. The SIS had sufficient intelligence and information with it to assess the reliability of the intelligence and get the law enforcement authorities to act on it.

Furthermore, why would the counterpart of Director SIS provide such precise intelligence to him and then try to divert attention by allowing a visit by the Indian Secretary of Defence? The counterpart continued to provide intelligence

even on 20th April 2019 which was more precise. The source became very concerned when they found out that the intelligence they had given to the Director SIS is been circulated on social media.

On the morning of 20th April the Indian counterpart who gave the intelligence first forwarded to him copies of a letter that was in circulation which included the input sent by the counterpart. According to the testimony of Director SIS, the counterpart was worried of the exposure of the input to the public as it may be an obstacle for them to get more information on Zaharan and his group.

ඒ එක්කම මම ඔහුට කතා කලා. මම කතා කරලා කිව්වා. ඔයගොල්ලන්ගේ නම මේ සම්බන්ධ නැහැ. ඔයගොල්ල ඒ ගැන කණගාටු වෙන්න එපා. මේක වෘත්තිමය භාවයෙන් අඩුයි. ස්වාමිනි ඒ තොරතුර අති රහසිගතයි කියලා ඉදිරිපත් කලේ. එතකොට ඒගොල්ලෝ ඒක ගැන පොඩි ගැටලුවක් තිබ්බා. තොරතුරු ලබාගැනීමට බාධාවෙයි කියලා මම කිව්වා ඒක ගැන එච්චර මෙවා කරන්න එපා. මම ඔයගොල්ලන්ගේ නම කොහෙවත් කියලා යවලා නැහැ. ඒ ගොල්ලොත් worry වුනා තොරතුර එලියට ආව ගමන්. මම permission අරන් යැව්වට. එතකොට මේක නැමතැනම යනවනේ සර් කියලා මට කිවා. එතකොට ඒගොල්ලෝ පොඩි concern එකක් පෙන්වුවා මට. ඒ කියන්නේ තොරතුරු පත්‍රයත් ඒ විදියටම circular වෙලා තියෙන හින්දා. එතකොට ඒගොල්ලන්ට මට එයා කිව්වේ නෑ ඒක එදාමද ලැබුනේ කියලා. ඒ ගොල්ලන්ටත් ඒක ලැබිලා තිබ්බා. ඒ කියන්නේ වටේටම ප්‍රහාරයට පෙර ගිහිල්ලා තියෙනවා.11වෙනිදා ඔක පල්ලෙහාට යවලා තියෙන්නේ. ඒ අනුව 11 වෙනකොට ඒගොල්ලන්ට ලැබිලා තිබ්බා.

(Proceedings of 20th August 2020)

The CID investigators who testified before the COI informed that they are investigating into the identity of Abu Hind. Those investigations should proceed. The COI was bound to examine the role of Abu Hind on available resources and acting within the mandate. We have set out our findings above.

However, there is another area which the COI has observed which needs attention. That is the role of Ahamed Thalib Lukman Thalib and his son Lukman Thalib Ahamed aka Abu Abdulla in IS and Al Qaida activity in Sri Lanka. They are of Sri Lankan origin domiciled in Australia.

Ahamed Thalib Lukman Thalib and his son Lukman Thalib Ahamed aka Abu Abdulla facilitated several members of the SLJISM, Sadeeq, Mohammad Nisthar Ahamad Munshif and Sufiyan to proceed to Syria through Turkey for arms training.

The COI received evidence of two witnesses who testified that Sara was seen alive after the Easter Sunday attacks and had fled to India. In her testimony Hadiya said that after the blast at Saindamarudu on 26th April 2019, she lost consciousness. After she regained it she could faintly hear a voice of a woman which sounded like Sara. The DNA analysis with the mother of Sara did not establish that Sara had died in the blast. In view of this testimony the COI recommends that investigations into Sara be continued.

Ahamed Thalib Lukman Thalib had close connections with a Sri Lankan named Baisz who while residing in Qatar had terrorist connections for which he was taken into custody in July 2020. Ahamed Thalib Lukman Thalib and four Maldivians with Islamic terrorist connections has on a few occasions come to Sri Lanka and held extremist discussions with Sadeeq.

Ahamed Thalib Lukman Thalib was arrested by Qatar government in October 2020 for aiding and abetting terrorism. One of his sons Lukman Thalib Ismail was also arrested. Lukman Thalib Ahamed is presently under surveillance of the Australian authorities on charges of supporting Al Qaida.

It is significant that according to former Director CID Shani Abeysekera some Australian sim cards were recovered from the blast site at Saindamarudu on 26th April 2019.

There was also intelligence received by the SIS from a counterpart about a Sri Lankan named Rimsan who is connected to Al Qaida and who in coordination with a Turkish activist Abu Abdulla Al Yemeni@Al Australi is planning on launching a terror attack in a South Asian country. This is a reference to Lukman Thalib Ahamed aka Abu Abdulla.

In view of the above facts, the COI recommends that the on-going criminal investigation examines the role, if any, of Ahamed Thalib Lukman Thalib, his son Lukman Thalib Ahamed aka Abu Abdulla and Rimsan in the Easter Sunday attacks.

The factual position outlined forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of an expert and of investigators.

Chapter 18

Sri Lanka Jamaat-e-Islami Organization (SLJI)

The COI observes that many of the participants at training camps organized by Zaharan were members of the SLJI. Several of the suspects in custody over the Easter Sunday attacks are from the SLJI. Hence the activities of the SLJI and one of its key figures Rasheed Hajjul Akbar are closely examined in this chapter.

Jamaat-e-Islami (gathering of the Muslims) is a religious revival movement established by Abul A'la Maududi on 26th August 1941. His political ideology represents the ideology of the Jamaat and is based on his two concepts; one, sovereignty belongs to God and purpose of every Muslim is to establish Gods rule on earth, and second, Islam is a complete and comprehensive way of life governing all aspects of life social, economic, political etc. Thus the main purpose of the Jamaat-e-Islami according to Maududi was to establish sovereignty of God on earth known by other terms also, like Islamic state or Darul Islam.[69] According to Maududi, "No doubt the Islamic State is a totalitarian state and comprises within its sphere all departments of life. But this totalitarianism and universality are based upon the universality of Divine Law which an Islamic ruler has to observe and enforce."[70]

The Indian branch of the organization is known as Jamaat-e-Islami Hind which was banned twice by the Government of India. The first was a temporary ban

[69] Rameez Ahmad Lone, *Jamaat-I-Islami: Ideology*, International Journal of Research in Social Sciences, Vol. 8 Issue 5, May 2018, page 792
[70] Ibid. page 796

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during the emergency of 1975-1977 which was revoked after the lifting of emergency. The second was in 1992 under the Unlawful Activities (Prevention) Act 1967 which was challenged before the Supreme Court.

In *Jamaat-e-Islami Hind v. Union of India* [1995 SCC (1) 428] the Indian Supreme Court quashed the order dated 11.04.1994 passed under section 4 of the Unlawful Activities (Prevention) Act 1967 confirming the declaration by the Central Government in the notification dated 10.12.1992 issued under sub-section (1) of Section 3 of the Act that Jamaat-e-Islami Hind is an "unlawful association" as defined in the Act. The judgment was based on procedural impropriety and the Supreme Court specifically held that its conclusion shall not be taken to debar action under the said Act against Jamaat-E-Islami Hind thereafter if the necessary material is available.

The SLJI was founded in 1954 by an Indian businessman named Abdul Cader Jailani Shahib at No. 77 Dematagoda Road, Colombo 9. Its worldviews are largely influenced by the thoughts of Hassan al-Banna, who founded the Muslim Brotherhood in Egypt in 1928 and the messages of Sayyid Qutb, who called Muslim societies to challenge the non-Islamic political system and ideas and build an Islamic State through the channels of (militant) jihad.[71]

Hassan al-Banna viewed Islam to be a comprehensive system of life and the Holy Quran as the only acceptable constitution. He advocated Islamization of the State, its economy and society. Sayyid Qutb himself was greatly influenced by Ibn Qayyim al-Jawziyya and Hassan al-Banna and was convicted in 1966 of plotting the assassination of Egyptian President Gamal Abdel Nasser and was

[71] *Sri Lanka Jamaat-e-Islami*, Dr. A.R.M. Imtiyaz and Ms. Minna Thaheer in Islam, Judaism, and Zoroastrianism, pp. 658-661, (2018)

executed by hanging. Ibn al-Qayyim is known as the foremost disciple and student of Ibn Taymiyyah whose views have had a profound impact on ultra conservative ideologies such as Wahabism, Salafism and Jihadism.

No one ever surpassed Hassan al-Banna in becoming such a tenacious symbol and spokesperson for the Muslim Brotherhood. To declare that the founder of the Brothers, "The Father of Islamism", built the foundations and paved the way for Islamic thinkers such as Abul A'la Maududiin India, Ruhollah Khomeini in Iran and –especially–Sayyid Qutb, is no exaggeration. Hassan al-Banna's Muslim Brotherhood –al-Ikhwan al-Muslimunin Arabic –had already after a few years in existence attained a strong political-religious character central to it score ideology.

To al-Banna, politics and religion was practically the same thing, and he announced regarding the two issues that "we do not recognize (...) divisions". The Brotherhood's members were encouraged to declare the same thing when confronting outsiders. Despite his vast commitment to the Muslim Brothers' cause, al-Banna was, as mentioned several times, no prolific writer or intellectual as his descendant Sayyid Qutb. More than anything, he was an activist. The founder's ideological doctrine was probably best compiled in the pamphlet Toward the Light. In this essay, al-Banna presented his Islamic principles which he encouraged to be realized, to preserve the nation and secure the creation of the new Islamic kingdom. Two years after his manifesto was written, he was assassinated at the age of 42, probably by the special police under orders of the Egyptian king.[72]

[72] Tommy Larsson, *The Islamist Ideology of Hassan al-Banna and Sayyid Qutb, A Comparative Analysis* [Online]. Available at https://www.duo.uio.no/bitstream/handle/10852/60197/Tommy-Larsson-MA-Thesis.pdf?sequence=. Accessed on 2nd January 2021.

The SLJI is working on the same ideology as Muslim Brotherhood (Ihquan Muslim) and has close connections with persons and organizations having the same ideology in Egypt, Saudi Arabia, Kuwait, Qatar, India and Pakistan. The final goal of the SLJI is the establishment of an Islam state in Sri Lanka and the creation of an Islamic state internationally. It is a long term objective.

Hajjul Akbar is the longest standing leader of SLJI having held office from 1994 to 2018.

The SLJI established Islahiya Arabic School in Madampe, Aiysha Sideeka Arabic School in Mawanella and Fathima Sahara Arabic College in Kalkudah. It has also established the Hizbul Islam Trust established by Act No. 7 of 1992 is part of this organization.

Naufer spent three years at Islahiya Arabic College in Madampe. Sadeeq and Shahid also have attended it. There is evidence that at Islahiya Arabic College the students were taught about the establishment of an Islamic State and that it is compulsory to learn to fight with weapons. They were also shown videos depicting the hardships faced by Muslims in Afghanistan, Bosnia and Chechnya. Every year, the students were taken to the forest and trained in physical and mental exercises using constructed camps.

The SLJI uses the holy Qurans published in Saudi Arabia and India in its activities. The members of the SLJI get opportunities to further study Islam in countries like Saudi Arabia, Malaysia, Turkey, Pakistan and India.

The SLJI started making Jamaat-e-Islam families which they called Usra system which connected families with one another as part of Jamaathe Islam family so that they became one society. They have their own meetings and events. This in turn leads to the gathering of more families.

Around 2015, the SLJI was active in the districts of Kandy, Puttalam, Mawanella and Kegalle.

The publications of the SLJI have over a period of time carried extremist content. *Al Hassanat* is the official publication of SLJI. Evidence was placed before the PCOI of several articles published in different issues of *Al Hassanat* which directly or indirectly glorified jihad. In one article jihad by one Abdulla Hassam in Afghanistan is highlighted including an interview with his five-year old son where he says that he also wants to commit jihad like his father and join him. Another article in 2008 June *Al Hassanat* glorifies jihad.

In the 1990 February publication of *Al Hassanat* it is said that the establishment of an Islam State cannot be done without waging jihad. In *Al Hasanath* in 1994 the front page carried a colour picture of Kulbuteen Hikmathyar, a jihad fighter in Afghanistan, with an AK 47 rifle.

The 1999 November *Al Hasanath* carried an editorial criticizing the worshipping of statues and praising those who break them. In the same edition reference is made to the establishment of an Islamic State as explained by Hassan al-Banna. In 2001 February Al Hasanath edition an article extols people who sacrifice their life for Islam and states that they will be given 72 virgins in heaven.

In June 2008 Al Hasanath edition Yusuf Al Qardawi is quoted as stating that a suicide attack is a great act of jihad.

Somewhere in 1992 or thereabout classes were conducted on Thursdays and the weekends in Mawanella, Wallawwatta by the SLJI for school children on the Qur'an. The children were taught that the breaking of religious statues was

the correct thing to do. The lessons also touched on the Palestinian, Bosnian and Kashmiri wars.

The SLJI also conducted five day residential programs. Some of these were held in 1995 and 1996 at Madampe Islahiya Arabic School and Mosque. Around 40 to 120 students participated in these programs. One of them was one Rizvie who is presently in custody over the Easter bomb attacks. During these programs the participants were taught that the creation of laws by the Sri Lankan Parliament is wrong. They were told that the creation of laws is the right of god and no one else can create or make laws. It was also taught that a Muslim cannot seek help from anyone else other than Allah and those they should not follow or support the creating of laws. More alarmingly, they were told that it is wrong to honour the national flag and anthem.

During one such workshop in discussing the establishment of an Islamic state, a question was raised by one of the students as to how to establish an Islamic state in Sri Lanka when the Muslims were in the minority. Hajjual Akbar, who was one of the resource personnel, replied that in India the Moghul Empire reigned for 800 years although Muslims were not a majority and gave the impression to the students that Muslims do not have to be in the majority and it is possible to establish a Islamic state if the power can be seized. He reportedly claimed that he has been to Afghanistan to perform jihad.

Further evidence that the long-term goal of the SLJI is the establishment of an Islamic state in Sri Lanka is contained in an interview of a former activist of SLJI A.G.M. Natheer aired over Neth FM Balumgala program on 19th June 2019.

Hajjul Akbar claimed that Zaharan had phoned him once and invited him for a debate which Hajjul Akbar declined. The Government Analyst was not able to

identify the voice of Zaharan as the other person taking part in the conversation.

Hajjul Akbar appears to have given up the leadership of SLJI around the time his brother Rasheed Mohamed Ibrahim started to openly advocate the ideology of ISIS.

SLJI received funding and opportunities from Turkish sources.

Hajjul Akbar testified that SLJI was mainly funded by Baithuz Zaqath (a semi government organization in Kuwait), Helping hand of USA and an organization named ICNA of Canada. However it was terminated from 2015, thus no foreign funds are received any longer. The reason for the termination was explained as allegations received from various quarters regarding partiality in choosing beneficiaries for such welfare projects. He testified that funds are now raised for the activities of SLJI in the form of a membership fee collected from its members, (ranging from Rs 200 to Rs 2000 depending upon the member's income) and donations received during Ramazan which are collected by sending request letters to a list of well-wishers. Furthermore, it was stated that well-wishers of the organization in Middle Eastern countries also contribute to it.

It was the evidence of Hajjul Akbar that SLJI, Thabligh Jamaat, and Thowheed Jamaat aimed at converting Sufi Muslims to their followers, on propounding their principles and teachings.

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Jamaat-e-Islami Student Movement (SLJISM)

This is the student's wing of the SLJI. It is open for Muslims after completing the Ordinary Level Examination and one can remain as a member until 26 years of age. Thereafter one has the option of joining the SLJI.

The highest level of membership is named "Rukoon" which is limited to 60 – 70 members. The next level of membership is named "Associate membership" which includes 250 – 300 persons. The lowest level is named workers. There is no fixed number but around 1200 – 1300 occupy this position. The members of the top board get the opportunity for frequent trips abroad to countries such as Malaysia, Saudi Arabia, India, Pakistan and Turkey.

The student wing was established in 1980. Ahamed Thalib Lukman Thalib, Yusuf Issadeen Mohomed Hanees, M.S.M. Faris, J.M. Ashroff, Z.A.M. Nauser and, J.M. Nivas were behind its establishment.

Although Ahamed Thalib Lukman Thalib and family migrated to Australia in 1995, it appears that they maintain close connections with Sri Lanka. Ahamed Thalib Lukman Thalib has two sons namely Lukman Thalib Ismail and Lukman Thalib Ahamed aka Abu Abdulla.

Lukman Thalib Ahamed aka Abu Abdulla is an Australian citizen and has travelled to Sri Lanka on a few occasions from 2014. The last time he came to Sri Lanka was on 20th December 2017 and left on 10th January 2018. From around 2014 he has had close connections with Mohomed Ibrahim Sadeeq Abdulla aka Abu Umar, one of the main suspects in the breaking of Buddha statues in Mawanella and the Easter attack, his father Rasheed Mohammad

Ibrahim and Mohammad Ramees Mohammad Sajid one of the suspects in custody over the Easter attack.

Ahamed Thalib Lukman Thalib and Lukman Thalib Ahamed aka Abu Abdulla facilitated Mohomed Ibrahim Sadeeq Abdulla aka Abu Umar to travel to Turkey and then Syria in 2014 for around 40 days for arms training. Mohomed Ibrahim Sadeeq Abdulla was a leader of SLJISM.

Mohammad Nisthar Ahamad Munshif of the SLJI had informed Mohomed Ibrahim Sadeeq Abdulla aka Abu Umar about the opportunity to go to Turkey. Munshif had functioned as President of SLJISM in 2011. Prior to Munshif mentioning the opportunity to travel to Turkey, Sadeeq had met Munshif at a mosque in Maradana along with Lukman Thalib Ahamed aka Abu Abdulla who had spoken about the injustice suffered by Muslims worldwide. Citing examples from Burma and Sri Lanka, Abu Abdullah had stated "ඒකට අපි තමා නැගිලා සිටින්න ඕනි.....".

The head of SLJISM at the time, Sufiyan, had purchased a ticket for Sadeeq to travel to Turkey. Abu Abdullah had picked him from the Airport in Turkey. He had borne all expenses for his lodging and food during the stay. After sometime from arriving in Turkey, Abu Abdullah had entrusted Sadeeq to a Turkish man and directed him to follow the latter.

The Turkish individual had led Sadeeq to a rundown building in war-stricken Aleppo where a Russian organization named Jamaiyythul Haththab operated. Russian and Turkish individuals had conducted the training sessions which lasted from morning to evening on days uninterrupted by airstrikes or other factors. The content of the Training program had included physical training and tactical training (military training which included imparting knowledge on how to handle weapons). T-56 firearms were made available and given for training.

Furthermore, training was given concerning LMG and pistols, without giving such weapons for physical handling. Hajjul Akbar during his evidence tendered evidence to establish that the membership of Sadeeq, his brother Shahid and father Ibrahim moulavi (brother of Hajjul Akbar) in the SLJI and SLJISM was terminated due to their extremist activities. However they were not documents contemporaneous to the period where Sadeeq his brother Shahid and father were removed from Sri Lanka Jama'athe Islami and its student body. They were dated 2019 and 2020.

In any event, SLJI had taken measures to remove Sadeeq from SLJISM after media reports of the death of Nilam, one of the first Sri Lankans to have joined the IS, while fighting for the ISIS. Three Executive Committee members of SLJI named Haneez, Fariz and Maheesh had summoned Sadeeq and informed him that he was removed from the organization for reasons of receiving training in Syria. According to the evidence, they had raised concerns over the issues SLJI would have to face if investigating officers gained knowledge about Sadeeq's training in Syria.

Hajjul Akbar produced reports pertaining to the removal of his nephews were submitted (marked RA 1, RA 2 and RA 3). When viewing the contents of RA 1 (dated 05/09/2019) it is apparent that Sadeeq was removed first from the SLJISM for failing to return in the promised month of return (September 2014). However, he was re-appointed as per a decision of the Central Committee upon his return a month later. According to the contents of RA 2, it was decided by a three member committee consisting of, Y.I.M. Haneez, Dr. M.C.M. Mahish and Fariz, Attorney at Law to remove Sadeeq from the SLJISM on the 22nd of August 2015 for fear of segregation within the movement owing to his actions, (allegations against him included conducting secret meetings within the student movement, preaching against the independent position of

the SLJISM and criticizing its leadership). The complaint against Sadique was brought forth by the head of the SLJISM, namely M.S.M. Sufiyan.

Sadeeq's brother, Shahid, was removed from the SLJISM on 17th July 2016 for the offense of participating in a program organized by Sadeeq despite the warnings of the SLJISM to abstain from participating.

Document marked RA 3 states that N.M.A. Munshif was removed from SLJISM (of which he was a member at the time) on 10th October 2015 for aiding Sadeeq and participating in secret meetings. Furthermore, N.M. Irfan was found to work together with Sadeeq. However, since his guilt could not be positively decided, it had been decided after a discussion with Hajjul Akbar (the witness) to ban him from participating as a resource person. The ban was removed two and a half years later as per Irfan's constant entreaties.

Document marked RA 3 further states that the father of Sadeq (R.M. Ibrahim) was removed from SLJI on 9th September 2018 due to his conflicts with SLJI decision to evict his son and for criticizing SLJI stance. The witness admitted at *pg. 69 of proceedings* that R.M. Ibrahim supported his elder son's views. SLJI had written a letter to R.M. Ibrahim dated the 6th of June 2018, calling upon him to explain his stance (C 258). The reply to C 258 was dated the 9th of June 2018 and marked C 259, by which Ibrahim Mowlavi had asserted that he was right while SLJI was travelling in the wrong direction. Minutes in Tamil pertaining to Ibrahim's removal were marked C 260 while its Sinhala translation furnished by the witness, was marked C 260A.

The COI makes the following observations on the evidence led on this issue.

Even though RA 1 and RA 2 contain the fact that the head of the SLJISM at the time Sufiyan, had complained about Sadeeq, the latter gave evidence before the COI that Sufiyan had purchased his ticket to travel to Turkey.

RA 3 states that one Irfan was alleged to have had connections with Sadeeq and was subjected to a ban for participating as a resource person. However, Sadeeq testified before COI that Irfan was also in Turkey with him and that Irfan had a hunch of what Sadeeq was doing in Turkey.

RA 1, RA 2 and RA 3 are not contemporaneous documents to the period where Sadeeq, his brother and father were removed from SLJI and SLJISM. They were dated 2019 and 2020.

There is also information that, Ahamed Thalib Lukman Thalib and his son Lukman Thalib Ahamed aka Abu Abdulla facilitated some others including another leader of the SLJISM, Mohammad Nisthar Ahamad Munshif to proceed to Syria through Turkey for arms training.

Ahamed Thalib Lukman Thalib was arrested by Qatar government in October 2020 for aiding and abetting terrorism. One of his sons Lukman Thalib Ismail was also arrested.

Lukman Thalib Ahamed is presently under surveillance of the Australian authorities on charges of supporting Al Qaida.

Ahamed Thalib Lukman Thalib had close connections with a Sri Lankan named Baisz who while residing in Qatar had terrorist connections for which he was taken into custody in July 2020. Ahamed Thalib Lukman Thalib and four Maldivians with Islamic terrorist connections has on a few occasions come to Sri Lanka and held extremist discussions with Sadeeq.

Some Australian sim cards were recovered from the blast site at Saindamarudu on 26th April 2019.

During the early 1980s agents of Internal Service Intelligence, the intelligence agency of Pakistan, came to Sri Lanka and gave lectures to the members of the

student wing encouraging them to go to Afghanistan for waging jihad against the Russian forces. It appears that a few student wing members did indeed travel to Afghanistan and fought alongside the mujahideen fighters and died. Agar who was a member of the SLJISM had travelled to Afghanistan and posed for a photograph with *Gulbuddin Hekmatyar,* leader of the Hezb-e Islami organization which was fighting the Russian forces.

The SLJI and SLJISM conduct several programs targeting school children in order to attract them to the organization.

A five-day program is held for students who had completed their Ordinary Level Examinations (referred to as Youth Empowerment Program [YEP] after 2010). The program dealt with educational motivation, skills development and attitude change as per the testimony of the witness. Describing attitude change, the witness stated that students were taught about how to maintain good relationships with their parents (as an example).

A seven-day course in conducted for students who had completed their Advanced Level Examinations (referred to as the Youth Development Program [YDP]), which gives career guidance and guidance on higher studies. Furthermore, Islam is taught as a religion from the basics which teaching is focused on teaching how to live according to Islam in day-to-day life.

The SLJISM organizes a program named SMART (Self-Management and Realistic Transformation) which is a 6-day program on leadership, to be undertaken by those who completed YEP course and choose to continue with the SMART course.

An important aspect concerning the YEP and YDP programs is that the SLJISM aimed at obtaining maximum participation of students. To this effect, some students are brought with much persuasion, who subsequently escapes from

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participating in the program. Statistics show that 900 – 1000 students annually participate for the YEP program while 250 – 300 students participate for the YDP program.

The leader of the SLIISM in 1995 or thereabout, Abdul Wajeed Islahi went to Pakistan for a month and came back and showed a picture of him posing with a gun in Kashmir. He also claimed that he had worked with the fighters in Kashmir. Islahi is a name given to a person who studied at Madampe Islahiya Arabic College.

Many of the members of the JMI, who maintained close connections with Zaharan and his group, were members of the SLIISM.

Around 15 members and former members of the SLIISM are in custody over the Easter attack. In fact Sadeeq and Mufees, the person who provided the land at Wanathawilluwa where explosives and weapons were found in January 2019, was member of the SLIISM.

What is of concern to the COI is programs conducted by Sri Lanka Islamic Student's Movement, the students arm of the JI, in 2018 and 2019, has been given publicity along with the Government emblem claiming that it is a collaborative exercise.

Hajjul Akbar testified that the Department of Muslim Religious and Cultural Affairs collaborates with the SLIISM in courses held for the students post Ordinary Level and Advanced Level examinations. The certificate for participants is awarded by the said Department.

The COI having examined the evidence presented to it on the activities of the Sri Lanka Jamaat-E-Islami Organisation and Jamaat-E-Islami Student Movement recommends that both the organizations be proscribed. An in-depth

investigation should be conducted into its activities and members in order to file criminal charges under the appropriate law.

Rasheed Hajjul Akbar

He was enrolled at Beruwela Jaamiya Naleemiya Institute in 1976 and claims to be a Moulavi although he does not possess a certificate from that institution. He joined the SLJI around 1987. At the same time he joined Madampe Islahiya Arabic School as a teacher. This school itself was started in 1987 by the SLJI and is registered with the Muslim Religious and Cultural Affairs Department. Abdul Gaffoor Mohomed Nadeer was its first Principal. Hajjul Akbar claimed that he had contributed towards de-radicalizing students who followed the teachings of the college's former principal Abdul Gafoor Mohomad Nadir who taught that the Sharia law ought to be followed in Sri Lanka disregarding the operative law.

Hajjul Akbar became the Principal around 1989 and worked there until 1994. He advocates following Sharia Law. Although he testified that what must be practiced in Sri Lanka is only what is compatible with the laws of Sri Lanka the COI concludes on the evidence before it that he has been advocating for its full application. He admitted that the full Sharia Law is taught in the Arabic Colleges in Sri Lanka independent of its compatibility with the laws of Sri Lanka.

In 1994 he was appointed as the leader of the SLJI and held that post until August, 2018. Prior to that he was in-charge of the Puttalam district and was a member of the Shura Council of the SLJI.

His younger brother is Rasheed Mohamed Ibrahim also said to be a Moulavi. Rasheed Mohamed Ibrahim and two of his sons, Sadeek Abdulla and Shahid Abdulla are all in custody at present in relation to the breaking of Buddha statutes in December 2018 and the Easter attack on 21st April 2019.

During a workshop conducted by SLJI at the Madampe Islahiya Mosque somewhere in or about 1995 after the O/L examination and in discussing the establishment of an Islamic State, a question was raised by one of the students as to how to establish an Islamic State in Sri Lanka when the Muslims were in the minority. Hajjul Akbar, who was one of the resource personnel, replied that in India the Moghul Empire reigned for 800 years although Muslims were not a majority and gave the impression to the students that Muslims do not have to be in the majority and it is possible to establish an Islamic State if the power can be seized. He reportedly claimed that he has been to Afghanistan to perform jihad.

During the period where Hajjul Akbar was the leader of the SLJI, several articles were published in its official magazine Al Hassanat which directly and indirectly motivated Muslims towards extremism and terrorism.

In one article jihad by one Abdulla Hassam in Afghanistan is highlighted including an interview with his five-year old son where he says that he also wants to commit jihad like his father and join him. There is another article in 2008 June Al Hassanat where jihad is discussed in glorified form.

In addition to several publications of Al Hassant referred to earlier, the following editions have content that raise serious concerns on religious harmony.

In 1990 September Al Hassanat, it is stated that the believers of Allah will not keep non-muslims as friends and that they will keep only believers of Allah as their friends.

In 1994 publication of the Al Hasanath the front page carried a colour picture of Kulbuteen Hikmathyar, a jihad fighter in Afghanistan, with a AK 47 rifle.

In 1999 November Al Hasanath carried an editorial criticizing the worshipping of statues and praising those who break them. In the same edition the establishment of an Islamic State as explained by Hassan al-Banna is mentioned.

In 2001 February Al Hasanath edition an article extols people who sacrifice their life for Islam and states that they will be given 72 wife's in heaven.

In June 2008 Al Hasanath edition Yusuf Al Qardawi is quoted as stating that a suicide attack is a great act of jihad.

In 2011 April Al Hassanat, the virtues of establishing Sharia Law is explained.

In 2011 May Al Hassanat, the death sentence imposed on Rizana in Saudi Arabia is justified as it is said to be part of Sharia Law.

He was arrested by the Colombo Crimes Division on 25th August 2019 and was released on 27th September 2019.

Based on the evidence led, the COI is of the view that Hajjul Akbar is one of the main ideologists of Islamic extremism in Sri Lanka. He has promoted religious hatred and intolerance, the application of Sharia Law in Sri Lanka and motivated Muslims to work towards establishing an Islamic State in Sri Lanka. The COI recommends that the Attorney General consider instituting criminal

proceedings against him for conspiring to establish an Islamic State in Sri Lanka.

The factual position outlined above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators and a witness on whose life an attempt was made earlier.

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Chapter 19

Accountability

The Mandate of the COI requires it to identify all authorities who are responsible for failure to prevent the terrorist attacks that took place on 21st April 2019, and to identify the authorities, who failed to perform their duties and did not take proper action due to incapacity.

In this Chapter the COI examines the failure on the part of the political leadership and senior public officers to prevent the terrorist attacks.

1. President Maithreepala Sirisena

He was sworn in as the President of the Democratic Socialist Republic of Sri Lanka on 9th January 2015 and held office until the 18th of November 2019.

President Sirisena was the Minister of Defence from 12th January 2015 to 18th November 2019. In order to ascertain the duties and functions of the Minister of Defence, the COI looked to two sources, namely written laws within the meaning of Article 170 of the Constitution and judicial pronouncements.

Article 4(b) of the Constitution directs that the executive power of the People, including the defence of Sri Lanka shall be exercised by the President of the Republic elected by the People. In response to the Reference under Article 129(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka 1978 dated 21st October 2003 by then President Chandrika Bandaranaike Cumaratunga, the Supreme Court held that the plenary executive power including the defence of Sri Lanka is vested and reposed in the President of the Republic of Sri Lanka and that the Minister appointed in respect of the subject of defence has to function within the purview of the plenary power thus vested and reposed in the President.

President Secretary's Copy

The ambit and scope of the executive power wielded by the President as aforesaid is elaborated from time to time by notifications made by the President in terms of the powers vested under sub-paragraph (a) of paragraph (1) of Article 44 of the Constitution of the Democratic Socialist Republic of Sri Lanka determining the number of Ministers of the Cabinet of Ministers and the Ministries and the assignment of subjects and functions and Departments, Statutory Institutions and Public Corporations to the said Ministers.

One such notification was published in Gazette Extraordinary No. 1896/28 dated 10th January 2015 which was later amended by Gazette Extraordinary No. 1897/15 dated 18th January 2015 and then by Gazette Extraordinary No. 1933/13 dated 21st September 2015[73].

Accordingly, the duties and functions of President Sirisena as the Minister of Defence were inter alia formulation of policies, programmes and projects, *monitoring and evaluation in regard to the subject of Defence*, and those subjects that come under the purview of Departments, Statutory Institutions and Public Corporations listed in Column II, *ensure defence of the country* by facilitation of functions of the defence services, *maintenance of internal security and maintenance of defence and internal security-related intelligence services.*

Amongst the laws to be implemented by the Minister of Defence were the Prevention of Terrorism Act No. 48 of 1979, Public Security Ordinance, Suppression of Terrorist Bombings Act No. 11 of 1999, Explosives Act No. 21 of 1956 and the Firearms Ordinance No. 33 of 1916.

[73] Exhibit C-938

In terms of Article 30 of the Constitution, the President is the Head of State, Head of Executive and Commander-in-Chief of Armed Forces.

The SIS, Sri Lanka Army, Sri Lanka Navy and Sri Lanka Air Force were organizations that was brought under the purview of President Sirisena and continued to be so until he ceased to be the President on 18th November 2019.

Interestingly, the duty to monitor was brought in by the Gazette dated 21st September 2015. President Sirisena in response to a question posed on this inclusion responded:

ප : තමුත් ඉකාම වැදගත් කරුණක් මේ ගැසට් පත්‍රය මඟින් එයට එකතු කරලා තියෙනවා. ඒ කමයි පසු විපරම් කිරීම හා ඇගයීම?

පි : හ්ම්.

ප : ඔබතුමන්ට පැහැදිලි කරන්න පුළුවන්ද මේ ගරු කොමිෂන් සභාවට ඇයි මේ 2015 සැප්තැම්බර් 21 වෙනිදා ප්‍රකාශයට පත් කරන ලද මෙම ගැසට් පත්‍රය මඟින් ඒ ආකාරයට අංක 01 කරුණ යටතේ පසු විපරම් කිරීම හා ඇගයීම කියන කරුණු ඇතුළත් කළේ කියලා. මන්ද ඔබතුමා ඒ ඇතුළත් කරලා තියෙන්නේ රාජ්‍ය ආරක්ෂාව පිළිබඳ විෂයට සහ දෙවෙනි තීරුවේ දැක්වෙන දෙපාර්තමේන්තු හා ව්‍යවස්ථාපිත ආයතන විෂයන්ට අදාළ ප්‍රකිපත්ති, වැඩසටහන් සහ ව්‍යාපෘති සම්පාදනය කිරීම කියන කරුණුවටයි?

ඉ : එහෙමයි.

ප : ඇයි ඔබතුමා හිතුවේ පසු විපරම් කිරීම සහ ඇගයීම කියන කරුණු මෙහි ඇතුළත් විය යුතුයි කියලා?

පි : පසු විපරම් සහ ඇගයීම් කියන කාරණාව ඇතුළත් කෙරුවේ විශේෂයෙන්ම ස්වාමීනි මේ 2015.16 මේ කාලය වෙන විට ලෝකය පුරාම ත්‍රස්තවාදී ව්‍යාපාර ලෝකයේ රටවල්වල IS සංවිධානය වෙනත් ත්‍රස්තවාදී ව්‍යාපාර විශාල වශයෙන් බෝම්බ පිපිරීම් පටන් ගත්තා.

ප : එහෙමයි.

පි : අසල්වැසි ඉන්දියාවේ විශාල වශයෙන් බෝම්බ පිපිරීම් පටන් ගත්තා. එතකොට ලෝකයේ යුරෝපය පුරා එක දිගට තැන් තැන්වල බෝම්බ පිපිරීම් පටන් ගත්තා.

ප : මදකට බාධා කරනවා ඔබතුමන්ට මම. ඔය මොන වකවානුවද අවුරුද්ද වශයෙන් කිව්වොත් ඔබතුමන්ගේ අවධානය යොමු වුණේ ඒ කුමන අවුරුද්ද කෙරෙහිද ඔය සිද්ධීන්වලට අදාළව?

පි : සාමාන්‍යයෙන් අහවල් රටම කියලා ඒ මොකද මට මතකයි ඔය කාලය වෙනකොට ඉන්දියාවේ බෝම්බ පිපිරීම් ඇති වුණා.

ප : එහෙමයි.

පි : ඊළඟට ඇෆ්ගනිස්ථානය ඊළඟට ඔය මැලේසියාව, ඉන්දුනීසියා වගේ රටවල් එක්ක මේ මට මතකයි හුඟක් බෝම්බ පිපිරීම් ඇති වුණා ත්‍රස්තවාදී සිදුවීම් සිදු වෙන්න පටන් ගත්තා. ඒක නිසා අපි ආරක්ෂක මණ්ඩලය තුළ වඩාත් සාකච්ඡා කළා ලංකාවේ මෙවැනි සිදුවීම් කිසිසේත්ම සිදු වීම වැළැක්විය යුතුයි. ඒක නිසා අපි සෑම විටම විමර්ශනයෙන් සහ සොයා බැලීමෙන් සිටිය යුතුයි බුද්ධි අංශක්, පොලිසියත්, හමුදාවත්, ත්‍රිවිධ හමුදාවේ බුද්ධි අංශත් මේ සම්බන්ධයෙන් වඩාත්ම සැලකිලිමත් විය යුතුයි කියන කාරණාව. එතකොට ඒ තත්ත්වයන් සැලකිල්ලට ගැනීම වගේම අනිත් පැත්තෙන් ගත්තහාම රට ඇතුළේ උතුරේ යම් යම් සිදුවීම් සිදු වෙන්න පටන් ගත්තා සුළු සුළු සිදුවීම්. එතකොට ඒ සිදුවීම් එක්ක අපි මේ කරන වැඩ, කරන කාර්යයන්, වගකීම් පැවරීම් පසුවිපරම් සහ ඇගයීම්වලට ලක් විය යුතුයි කියන කාරණාව ඇතුළත් කළ යුතුයි කියලා තමයි ඇතුළත් කිරීම සිදු කළේ.

(Proceedings of 5th October 2020, pages 28-29)

Clearly President Sirisena was aware of the threat of IS activity in the region and wanted to ensure that such activities will not take place in Sri Lanka and the duty to monitor was going to play an important role in its prevention.

The accountability of President Sirisena will be considered in the context of the above legal framework. In this examination, the COI will consider his accountability based on facts before 4th April 2019 and secondly after 4th April 2019.

1. Period before 4th April 2019

The NSC was in existence for several years and in the early days appears to have functioned as a customary practice without any legal framework. It was given statutory recognition under the Public Security Ordinance in terms of Emergency (National Security Council) Regulation No. 1 of 1999 published in Gazette Extraordinary No. 1081/19 dated 27th May 1999. It established a NSC, with the President as head, charged with the maintenance of national security with authority to direct security operations and matters incidental to it.

No doubt this regulation lapsed with the ending of emergency in the country. However, by custom and practice, the NSC was in existence as part of the administrative structure even thereafter.

The evidence before the COI is that prior to January 2015, the NSC used to meet every week on Wednesdays under the chairmanship of the President before which an intelligence coordination meeting was held at the MOD on Tuesday presided over by the Secretary to Defence. This arrangement facilitated the discussion of matters pertaining to national security so that the intelligence agencies could share the information they had which then was presented to the NSC the next day.

However, since President Sirisena assumed duties as the President and Minister of Defence, the NSC meetings were not held regularly. Sometimes it was not held at all for the relevant month, for example March 2019, while in some cases it was held on one or two weeks of the month.

This reflects an appalling lack of appreciation of the duties and functions of the Minister of Defence, need to maintain a close supervision on national security, dangers posed to the national security by the activities of IS, Zaharan and his followers. Initially President Sirisena took up the position that it was only in January, 2019 that he was put on notice about a buildup of IS idelology in Sri Lanka and that Zaharan was spreading that ideology.

එතකොට IS මතවාදය ගොඩ නැගීම සම්බන්ධයෙන් 2019 මගේ මතකයේ හැටියට ජනවාරි මාසේ විතර වගේ වාර්තා වුණා. ඒ අවස්ථාවේදීම මම පොලීසියට උපදෙස් දුන්නා වහාම සහරාන්ව අත්අඩංගුවට ගත යුතුයි කියන එක, මම උපදෙස් දුන්නේ 2019 ජනවාරිවලටත් ඉස්සරලා කියලයි මගේ මතකය තියෙන්නේ.

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2019 ජනවාරි මුල් කාලයේදී තමයි සහරාන් සම්බන්ධයෙන්, සහරාන් IS මතවාදය පතුරවනවා කියන එක වාර්තා කරනු ලැබුවේ.

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However, the evidence before the COI indicated that the President was put on notice of the spread of the IS ideology in Sri Lanka and that its supporters

including Zaharan were propagating and showing their support to it on social media much earlier to January 2019.

ප : ඔබතුමාට දැන ගන්නට ලැබුණාද 2016 නොවැම්බර් මාසේ 17 වෙනිදා ආචාර්ය විජයදාස රාජපක්ෂ මහත්මයා ශ්‍රී ලාංකිකයින් IS සංවිධානයට සම්බන්ධවීම පිළිබඳව පාර්ලිමේන්තුවේ ප්‍රකාශයක් කරනු ලැබූ බව?

පි : එහෙමයි. ඒ ගැන මම දැනුවත් වුණා.

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ප : ඔබතුමාගේ අවධානයට 2019 මුලට පෙර බුද්ධි අංශය විසින් සහරාන් නැමැත්තා IS මතවාදය ප්‍රචාරය කරමින් අන්තර්ජාලය ඔස්සේ ඔහුගේ අදහස් ප්‍රකාශ කරන බව, මුහුණු පොත ඔස්සේ ඔහුගේ අදහස් ප්‍රකාශ කරන බව, ඔහුගේ අනුගාමිකයන් අභිප්‍රේරණය කරන බව දැනුම් දීලා තිබුණේ නැද්ද?

පි : මට ඒ පිළිබඳවනම් හරියට මතකයක් නැහැ.

ප : ඔබතුමාගේ මතකය අළුත් කරමින් මා ඔබතුමාගේ අවධානයට සමහර ලේඛන පෙන්නුවොත් එයින් මතකය අළුත් කර ගන්නට පුළුවන් වෙයි නේද?

පි : එහෙමයි.

(මම ඔබතුමාගේ අවධානයට යොමු කරන්නට කැමතියි 2017 නොවැම්බර් මාසේ 30 වෙනිදා එවකට රාජ්‍ය බුද්ධි සේවාවේ අධ්‍යක්ෂවරයා වූ නිලන්ත ජයවර්ධන මහතා විසින් ඔබතුමාගේ අවධානය වෙත ගිංතොට ප්‍රදේශයේ සිංහල සහ මුස්ලිම් ජාතිකයින් අතර ඇති වූ ගැටළුකාරී තත්ත්වය හා මුස්ලිම් සමාජයේ ප්‍රතිචාර කියන මාතෘකාව යටතේ ඉදිරිපත් කොට ඇති මෙම ලේඛනය. (සාක්ෂිකරුට X-412 පෙන්වයි)

ප : මැතිතුමනි ගිංතොට ප්‍රදේශයේ ඔය සිදු වුණ සිද්ධිය සිංහල සහ මුස්ලිම් ජන කොට්ඨාශය අතර වූ ගැටුම ඔබතුමාට මතකයිනේ?

පි : මතකයි.

ප : ඊට පසුව කමිසි රාජ්‍ය බුද්ධි සේවය විසින් මෙම ලිපිය නැත්නම් මේ වාර්තාව ඔබතුමාගේ අවධානය වෙත යොමු කරලා තියෙන්නේ?

පි : එහෙමයි.

ප : එතකොට එහිදී පැහැදිලිවම 2017 නොවැම්බර් මාසේ 30 වෙනිදා රාජ්‍ය බුද්ධි සේවාවේ අධ්‍යක්ෂවරයා අවධානයට යොමු කරලා තියෙනවා නේද මෙම සිදුවීම පිළිබඳව National Thawheeth Jamath නායක මොහොමඩ් කාසීම් මොහොමඩ් සහරාන් විසින් සිය අෂේක් සහරාන් හෂීම@ hafidhahullah නැමති සමාජ ජාලා ගිණුම හරහා 2017 නොවැම්බර් මස 19 වන දින ලිපියක් ප්‍රචාරය කරමින් අන්‍යාගමිකයින්ට ඒ කියන්නේ කාෆිර්වරුන්ට යටත්ව සිටීමේ අවශ්‍යතාවයක් නොමැති බවත්, නබිතුමා විසින් කාෆිර්වරුන්ට එරෙහිව ජිහාඩ් කළ බවත් කුරානය සහ හදීස් අනුසාරයෙන් පැහැදිලි කිරීමක් සිදුකර ඇත කියලා?

පි : එහෙමයි.

ප : දැන් මැතිතුමනි එයින් පැහැදිලිව සඳහන් වෙනවා නේද මේ සහරාන් හෂීම් කියන තැනැත්තා කාෆිර්වරුන් කියලා කියන්නේ ඔවුන්ගේ ආගම අදහන්නේ නැති අන්‍යාගමිකයින්. ඔවුන්ව මරා දැමීමට නබිතුමා විසින් ඔවුන්ට එරෙහිව ඔවුන් මරා දැමීම සිදු කරපු බව කුරානය සහ හදීස් අනුසාරයෙන් පැහැදිලි කිරීමක් සිදුකර ඇති බව?

පි : මේ ලිපියෙන් පැහැදිලි වෙනවා.

ප : දැන් එතකොට ඔබතුමාට ඒක වාර්තා කරලා තිබෙන ආකාරයට සහරාන් මෙය කරලා තියෙන්නේ ඔහුගේ සමාජ ජාලා ගිණුම හරහා?

පි : එහෙමයි.

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In the same letter in the aftermath of the Ginthota incident between the Sinhalese and Muslims, the Director SIS informed the President that Zaharan

had issued a letter on his facebook stating that there is no need to be subjugated by non-Muslims and that Prophet Muhammed has explained in the Qur'an and Hadith that jihad should be launched against non-Muslims.

Former Director SIS, Nilantha Jayawardena testified that he kept the NSC informed of the activities of Zaharan at least from 2016. This was admitted by President Sirisena.

ප්‍ර: කුත්වෙනුව ඔබතුමන්ලාගේ අවධානය යොමු කරලා තියෙන්නේ මොහොමඩ් කාසිම් මොහොමඩ් සහරාන් සහ ඔහුගේ සහෝදරයා ජාතික තවුහිද් ජමාත් සංවිධානයේ කැනැත්තන් බවත් ඔවුන්ගේ මුහුණු පොත් සමාජ ජාල ගිණුම් ඒ කියන්නේ මුහුණු පොත් හරහා IS මතවාදය පෝෂණය කරමින් ඉස්ලාමය අභිවෘද්ධිය වෙනුවෙන් මරාගෙන මැරෙන ප්‍රහාර සහ IS සංවිධානයේ ප්‍රහාරත් ඉස්ලාමය අනුව නිවැරදි බවට ඔහුන් ප්‍රකාශ කරනවා කියලා ඔබතුමන් ලාව දැනුවත් කරලා නේද ?

පි: එහෙමයි.

ප්‍ර: දැන් මැතිතුමණි මේ දැනුවත් කිරීම කරන්නේ 2016 නොවැම්බර් මාසේ 17 වෙනිදා?

පි: එහෙමයි.

ප්‍ර: එතකොට ඒ වෙන කොට මේ සහරාන් කාත්තන්කුඩියේ පිහිටි ඔවුන්ගේ සංවිධානයේ ප්‍රධාන කාර්යාලයේ හැම ඉරිදාවම ඉස්ලාම් රාජ්‍ය සහ කලීෆා සම්බන්ධයෙන් දේශන පවත්වන බවටත් ඔබතුමන්ලාව දැනුවත් කරලා තියෙනවා?

පි: එහෙමයි

ප්‍ර: පසුගිය අවස්ථාවේදී මා ඔබතුමාගේ අවධානයට සිකියම පෙන්වමින් කලීෆාවේ සිකියම පෙන්වමින් අවධානය යොමු කරා කුරසාන් කියන ප්‍රාන්තයට අයත් වන විදියටත් ශ්‍රී ලංකාවත් වර්ණගන්වා ඇති බව ඔබතුමාට මතකද ?

පි: එහෙමයි.

ප්‍ර: දැන් ඒ සම්බන්ධව තමයි මේ ඉස්ලාම් රාජ්‍ය හා කාලීෆාව සම්බන්ධයෙන් තමයි හැම ඉරිදාම මේ තැනැත්තා දේශන පවත්වනවායි කියලා කියන්නේ? ඊළඟට බලන්න මේ අධ්‍යක්ෂවරයා ඔබතුමන්ලාට නිරීක්ෂණ වගයක් ඉදිරිපත් කරගලා තියෙනවා?

පි: එහෙමයි.

ප්‍ර: ඒ නිරීක්ෂණවලින් එකක් තමයි ඔබතුමන්ලාගේ අවධානය යොමු කරලා තියෙනවා 2016 .11 වෙනි මාසේ 15 වෙනිදා ඒ කියන්නේ මේ ඉදිරිපත් කිරීම කරන්නට දවස් 02 කට ඉස්සර වෙලා මේ ශ්‍රී ලංකා තවුහීද් ජමාත් සංවිධානය ක්‍රියාකාරකම් හේතුවෙන් ලංකාව තුළ මුස්ලිම් හා සිංහල ජන කොටස් අතර ව්‍යසනයක් නිර්මාණය වන බවට මර්කස් ඉස්ලාමික් මධ්‍යස්ථානය සහ සමස්ථ ලංකා ජම්තුල් උලමා සභාව විසින් සාකච්ඡා කරාය කියලා එහෙම තියෙනවා නේද මැතිතුමනි?

පි: එහෙමයි.

ප්‍ර: එතකොට ඒ නිරීක්ෂණය අනුව පෙනී යනවා පැහැදිලිවම මේ සහරාන් ඇතුලු කණ්ඩායමේ මේ ආගමික මතවාදය මේ අන්තවාදී අදහස් එම ඉස්ලාම් ආගමම අදහන අනෙක් කොටස් විසින් සම්පූර්ණයෙන්ම ප්‍රතික්ෂේප කොට බැහැර කරනු ලබන බව නේද?

පි: එහෙමයි.

ප්‍ර: ඒ වගේම ඔවුන් මේ අන්තවාදී මතවාද මේ ආකාරයට පවත්වාගෙන යාම නිසා මුස්ලිම් සහ සිංහල ජන කොටස් අතර ව්‍යවසනයක් ඇති වෙන්න පුළුවන් කියලා පුර්ව වශයෙන් පෙර දැක්මක් කරලා තියෙනවා?

පි: කරලා තියෙනවා

(Proceedings of 14th October 2020 pages 20-22)

It was in evidence that Director SIS Nilantha Jayawardena had made several presentations to the NSC on IS and Zaharan and his group.

Date of the Presentation	Contents of the Presentation discussed at the Security Council
2016.11.17	About IS in an international context and also about radicalized persons in Sri Lanka such as Adhil Amis and Zaharan
2017.03.16	About Sri Lankans who were advocating about IS ideology. Explains about members of NTJ and their conduct in relation to Kaththankudi Aliyar junction incident that happened on 2017.03.10.
2017.06.13	About extremist religious (Buddhist and Muslim) groups and organizations operating in Sri Lanka. Moreover he has explained the international and regional expansion of IS ideology.
2017.09.11	He has described about incidents which are detrimental to reconciliation and development of ISIS in international context. In describing ISIS activities in Sri Lanka Nilantha Jayawardena clearly identifies Zaharan Hasheem as an extremist preacher and that he is motivating Sri Lankan youth towards the ISIS ideology.
2018.01.05	Explains about the incidents which have an impact on ethnic harmony. He highlights Mohommad Zaharan's

	online lectures as a threat to ethnic harmony. In Zaharan's online lectures he has criticized democracy, parliamentary system and also he has emphasized the importance of Jihad.
2018.10.23	This presentation explains in detail about Sri Lankan's who were radicalized by the ISIS ideology. (About 120 individuals). Zaharan Hashim is identified as a preacher who is preaching extreme Ideology of the ISIS
2018.11.13	This presentation explains about the spread of ISIS ideology in Sri Lanka and the individuals who were radicalized by this ideology. Mohommad Zaharan is identified as a person who is motivating Muslims to launch attack against non-believers.
2019.01.14	Explains about Mawanella Budhdha statue incident. It highlights that the suspects (Sadiq and Shaid) and their connections with Zaharan.
2019.02.19	Director SIS Nilantha Jayawardena made an extensive presentation about Wanathawilluwa explosions, recovery and its connections with Zaharan.

Furthermore, Director SIS Nilantha Jayawardena has also sent the following intelligence reports to President Sirisena.

Date of the Report	Matters brought to the notice of the President
2016-11-24	After Dr. Wijayadasa Rajapakshe's speech in Parliament on 17th of November 2016 about ISIS in Sri Lanka, different Muslim political and social leaders have expressed their views on the problem. (Mr. Rauf Hakeem, Mr. N.M Ameen, Mr. Rishad Bathiudeen) The SIS also brought to the attention of the President about Mohammad Zaharan as a person who is a strict follower of Thowheed Ideology. Furthermore, SIS informs the president about Zaharan's extremist speech made (X-410B) and highlights that Zaharan has named Rev. Gnanasara Thero as an enemy of God.
2017-05-26	SIS informed the President that due to Galaboda Aththe Gnanasara thero's activities, Muslim youth have a tendency to move towards ISIS ideology.
2017-06-06	SIS Director informed the President that there is a possibility of launching of attacks against non-believers by people who are motivated by the ISIS ideology recommends that it is best to increase security in areas where

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	diplomats and western tourists would gather.
2017-06-06	About a Sri Lankan Muslim youth who is inspired by ISIS attacks and possible threats.
2017-06-20	Death of Thaskir Ahamed Thajudin by Syrian Air Strike.
2017-11-30	Report on Ginthota Incident between some Sinhalese and Muslim groups. Highlights comments of extremist preacher Zaharan made on 2017.11.30 about this incident. Zaharan in his speech has stated that according to Quran it's not necessary to be under non-believers like this and its permitted to do jihad against these non-believers.
2018-02-28	Information about a Sri Lankan connected to Al Qaida who in coordination with a Turkish activist Abu Abdulla Al Yemeni@Al Australi is planning on launching a terror attack in a South Asian country.
2019-01-06	Report on the Mawanella incident. It mentions that the act was carried out by thowheed extremist group. The President is informed about the links between Zaharan to the suspects of Mawanella Incident.

Therefore the COI observes that President Sirisena had prior knowledge, at least from November 2016, of the activities of Zaharan. However he contended that at no time was the NSC informed that Zaharan was a terrorist. But it is clear that there was no reason to doubt that Zaharan was a terrorist prior to the Easter attack when he was clearly advocating the IS ideology which is admittedly terrorist in nature.

In terms of Gazette Extraordinary No. 2103/33 dated 28th December 2018, the Ministry of Law and Order was also brought under President Sirisena and the Police Department came under him.

On 6th January 2019, the SIS Director informed the President that the two main suspects in hiding over the Mawanella incident relating to the breaking of Buddha statues are the sons of Rasheed Mohammed Ibrahim and that all three hold extremist views and support Islamic terrorist groups operating internationally. He was further informed that the two main suspects have had close connections with Zaharan and used his extremist sermons as well as the publications of other international Islamic terrorist organizations to induce their supporters to launch the attack. It was also mentioned that these youth had the desire to kill non-Muslims and make Sri Lanka an Islamic State. He went on to state that even Zaharan had, from 2016 in line with the IS ideology, the desire to make Sri Lanka an Islamic State or to go to Syria or Iraq and join the IS.

In the Monthly Threat Forecast for January 2019 prepared by the Institute of National Security Studies Sri Lanka (INSSSL) for the President only, it is recommended that the group behind the Wanathawilluwa arms and explosives cache should be investigated to find if there is a connection to foreign

extremist groups and if that is the case, the Government and MOD should take it as a serious threat to national security of Sri Lanka.

President Sirisena in his evidence admitted that he was briefed by the SIS and DMI about Islamic extremism in Sri Lanka and the global trends. He took up the position that after those briefings he took the following steps:

- Gave necessary instructions to the Defence Secretary to take action to enforce law against all the extremist groups including Sinhala-Buddhist extremist as well as the Islamic Extremists. In addition, he testified that he also instructed to look in to Sharia Law, Halal & Burka issues as well.
- Instructed to inform Muslim religious leaders about Islamic extremism in Sri Lanka and through them to make efforts to de-radicalize the radical fractions of the Muslim population.
- Instructed to the Police to deal with extremism and take necessary action.
- He discussed these extremist issues in the Cabinet and had personally informed the Muslim Ministers to act together with their community and religious leaders in order to eradicate Islamic extremism from their community. However, Ministers Kabeer Hashim and Rauf Hakeem denied any such discussion taking place in the Cabinet.
- When he was informed in 2019 January about Zaharan's connection to the Mawanella incident, he had firmly instructed the Police to arrest Zaharan immediately. Although Director SIS Nilantha Jayawardena did not mention of this specific instance, he corroborated such instructions coming from the President as did former Army Commander Mahesh Senanayake.

ප : එතකොට ඔබතුමා ඒ අවස්ථාවේදී පොලිස්පතිතුමාගෙන් ඇහුවේ නැද්ද සහරාන් සම්බන්ධයෙන් 2017 ඉදලා වරෙන්තුවක් තියෙනවා නම් දැන් 2019 නේද මෙච්චරකල් මොකක්ද කළේ ඔහුව අත්අඩංගුවට ගත්තේ නැද්ද කියලා?

සි : ඇත්තෙන්ම මේ ගැන සාකච්ඡා කළා කතා කළා උපදෙස් දුන්නා. මම ඒ අවශ්‍ය නියෝග කළා. මොහු වහාම ගත යුතුයි කියන එක. ඒ අවස්ථා ගණනාවක මම කියලා තියෙනවා ස්වාමිනි.

(Proceedings of 5th October 2020 page 66)

However, the COI observes that the action taken by President Sirisena falls short of the duties and responsibilities placed upon him as Executive President and Minister of Defence.

In 2019 there were only two NSC meetings convened by President Sirisena. One was on 14th January before the discovery of the Wanathawilluwa explosives and arms cache and the next on 19th February. Some of the recoveries from Wanathawilluwa included six cans of what was suspected to be nitric acid cans weighing 35 kgs each, 99 detonators and three cans containing white powder suspected to be explosives. This was one of the largest discoveries of explosives after the end of the war in 2009. There is no dispute that President Sirisena was made aware of this discovery at Wanathawilluwa.

In this context, it was incumbent on the part of President Sirisena to have convened the NSC every week and put in place a mechanism to address the threat posed by Zaharan and his group.

In Re Nineteenth Amendment to the Constitution (SD 4-10/2015, 14-17/2015 and 19/2015), the Supreme Court held that the President *must be in a position to monitor* or to give direction to others who derive authority from the

President in relation to the exercise of his Executive power and the failure to do so, would lead to a prejudicial impact on the sovereignty of the People.

No such monitoring was done by the President. Even the NSC meetings were not held as it should have been other than on 19th February 2019. No NSC meeting was held at all until the Easter attack.

Furthermore, the COI observed that through continuous reports the SIS informed of the gradual increase of the Islamic extremists in Sri Lanka and the spread of IS supporters in Asia. As the Head of State and Executive President and Minister of Defense, he should have realized the looming threat to the national security of Sri Lanka. He should have understood the inadequacy of the limited steps taken by him. He should have played a proactive role and given consideration to further action such as ban of the IS and its related groups in Sri Lanka. Moreover, he should have given instructions for a special operation to be launched for the immediate arrest of Zaharan under the International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 after the NSC presentation on 11th September 2017.

The SIS in its reports had informed of the preaching by Zaharan for the elimination of non-Islamic persons. He admitted in evidence that with the assistance of others, with proper planning and by exercising vigilance, he succeeded in overcoming near death experiences on several occasions when he was under threat. He further admitted that during the civil war, in different places of the country several innocent civilians, service personnel were killed from bomb blasts whilst the public as well as the private property had been destroyed. He himself had acted as the Minister of Defence on a number of

occasions and took pride in stating that even at the time the Sri Lankan troops successfully defeated the LTTE leadership in 2009 he was the Minister acting in this capacity. When questioned he readily agreed that the proper planning by the Sri Lankan armed forces led to this victory.

On 19th February 2019 there had been a NSC meeting and Director SIS Nilantha Jayawardena has made an extensive presentation about Wanathawilluwa explosions recovery and its connections with Zaharan.

According to President Sirisena at this NSC meeting he states that he firmly instructed the Police to arrest Zaharan immediately. Although Director SIS Nilantha Jayawardena did not mention of this specific instance, he corroborated such instructions coming from the President. This was the only NSC meeting called after the recovery of explosives at Wanathawilluwa and the Easter attacks.

However, he had failed to consider Zaharan as a threat to National security. He failed to monitor his own instructions relating to Zaharan because neither the gradual evolution of the Islamic extremism in the country nor the fact that these extremists were reported to be having a hand in the explosives and other material recovered from Wanathawilluwa was important to him as the Head of the State, Minister of Defence and Minister of Law & Order. Would not a reasonable and a prudent man have felt the danger that was oncoming?

If President Sirisena was acting with due diligence would he not have paid heed to the national security of the country as much as he was said to be paying attention to eradicate 'drug trafficking'? Had he done so, would he have not had the NSC meetings summoning all relevant officials on a regular basis? Even at those few meetings he has had, when the intelligence officials brought

up issues that had direct impact on national security[as we see now], if those were duly recognized and considered, would the witnesses who testified representing different intelligence organizations in the country have spoken demonstrating dissatisfaction of the 'interest shown by the Executive"?

The evidence before the COI is that President Sirisena took a soft approach towards Islamic extremism. Asanga Abeygoonasekera, former Director, Institute of National Security Studies testified that both he and Director SIS Nilantha Jayawardena were in the VIP room at the MOD to meet the Secretary Defence in March 2017 or thereabout when he raised the topic of Islam extremism with the Director SIS. Then he was told by Director SIS of a remark made by President Sirisena.

A: **Apart from the monthly threat forecast I sent on March we were asked to I mean the Director/SIS told me that I asked him about the extremist threat with him and the exact used words he mentioned was I have written that on my statement Your Honour. Should I mention that? He mentioned that එහා මෙහා යන නයි ඔරද්ද ඇතුළේ දාගන්න එපා that's what's he mentioned. Then I asked what does it mean? Then he said President Sirisena said that and he says that you know that his idea. That's what he said. So we didn't do much work on extremism Your Honour after that. Last MTF I kept on writing on my MTF about extremism Your Honour. Last one was on 2019 January I mentioned after the detonators were found in Wanathawilluwa I mentioned in my MTF saying that the significant National Security to Sri Lanka.**

[Proceedings of 30.09.2020, pages 25-26]

He went on to testify that thereafter they did not do much work on extremism. The witness was not examined by either of the legal counsel appearing on behalf of President Sirisena or Director SIS on this part of the evidence during their cross-examination.

Evidence was also led to show that although President Sirisena had appointed Retired DIG Nimal Lewke as an advisor on Defence, he was never consulted by the President on any Defence matters. Moreover, it was the evidence of Retired DIG Nimal Lewke that he had told the President in September 2018 that the SIS needed to be strengthened. Shortly thereafter his services came to an end.

In *Blyth v. Birmingham Waterworks Company* [(1856) 11 Ex 781, 784] "negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, -or- doing something which a prudent and reasonable man would not do".

Criminal Negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the accused person to have adopted [*Idu Beg* (1881) 3 All 776, 779, 780 – *Bhalchandra* AIR 1968 SC 1319; (1968) Cri.LJ 1501].

Upon a consideration of the evidence of the facts before 4th April 2019, the COI is of the view that President Sirisena has failed in his duties and responsibilities and that this failure transcends beyond mere civil negligence.

2. *Period after 4th April 2019*

Secretary Defence, IGP as well as the Director SIS testified that none of them informed President Sirisena of the intelligence received on 4th April 2019. The COI considers that both these officers have no reason to protect President Sirisena.

However the COI is cautious in accepting the evidence of President Sirisena and Director SIS on this matter. The COI is of the view that the credibility of both these witnesses on this aspect raises serious concerns.

On the part of Nilantha Jayawardena, Director SIS, it was clear to the COI that he was at great pains to protect President Sirisena from any blame. For example, he stated that intelligence reports are never given by the Director SIS to the President. However, the COI found several confidential intelligence reports sent by Nilantha Jayawardena, Director SIS directly to President Sirisena. The Director SIS also testified that he reports to the President only through Secretary Defence and not directly. Yet the COI was provided evidence, in addition to the reports referred to above, of several telephone calls between Nilantha Jayawardena, Director SIS and the Presidential Secretariat. In fact President Sirisena, who testified after Nilantha Jayawardena Director SIS, acknowledged that he has received calls directly from Nilantha Jayawardena, Director SIS.

On the part of President Sirisena, he was at great pains not to blame Director SIS for lapses or wrongdoing whereas he did not hesitate to do so with respect to Secretary Defence and the IGP.

Some of the calls from Nilantha Jayawardena Director SIS to the Presidential Secretariat were between 4th and 16th April 2019, prior to President Sirisena proceeding to India and then Singapore.

Having observed the very close connection on the evidence between President Sirisena and Nilantha Jayawardena Director SIS, the COI observes that on a balance of probability Nilantha Jayawardena Director SIS did convey the intelligence received by him to President Sirisena between the 4th and 16th of April 2019.

However, in view of the analysis made in Chapter 13, COI is of the view that Nilantha Jayawardena Director SIS, did not attach the weight he should have attached to it which is also reflected in the communication he sent to IGP on 9th April 2019. In particular, he has diluted the weight of the intelligence by the Indian intelligence.

The COI notes that President Sirisena proceeded to India and then Singapore from 16th to 21st April, 2019 without making any acting appointment for the post of Minister of Defence in spite of the knowledge he possessed of possible threat from IS/Zaharan. No doubt, in terms of the Constitution, there appears to be discretion in the President in the making of an acting appointment. Nevertheless, in the given circumstances, President Sirisena should have made an acting appointment.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against President Sirisena under any suitable provision in the Penal Code.

2. Prime Minister Ranil Wickremasinghe

Prime Minister Wickremasinghe was appointed as Prime Minister on four occasions. His first appointment was for the period 7th May 1993 to 19th August 1994. Next he held the post from 9th December 2001 to 6th June 2004. He was appointed as the Prime Minister for the third time on 9th January 2015 and held office until 26th October 2018 when he was removed from office by President Sirisena. Following rulings by the Supreme Court and the Court of Appeal, he was re-instated as Prime Minister on 16th December 2018. He held office until 21st November 2019.

One significant event during the tenure of Prime Minister Wickremasinghe from 9th January 2015 to 26th October 2018 was the enactment of the 19th Amendment to the Constitution. In relation to the powers of the Prime Minister, it brought in Article 43(2) which required the President to act on the advice of the Prime Minister in appointing Ministers to be in charge of the Ministries.

According to Gazette marked as C 939, the Prime Minister is not a member of the NSC. However, Prime Minister Wickremasinghe having held the post of Prime Minister previously, testified that he took part in the NSC meetings and that these meetings helped the President as Minister of Defense to take certain decisions with regard to national security.

Prime Minister Wickremasinghe was invited to take part in the NSC meetings from the time he was appointed as Prime Minister until 26th October 2018. However many witnesses testified that he was not present at times and when he did attend most times he did not stay for the full meeting.

Prime Minister Wickremasinghe explained his conduct in view of his other engagements. The explanation he offered for priority to these "other meetings" was that he was unable to change his pre-scheduled meetings when the meetings of the NSC were fixed at short notice. When Prime Minister Wickremasinghe requested President Sirisena to have regular NSC meetings on a specific day, the response had been that the SIS informs him about important information. This position was corroborated by then Defense Secretary Hemasiri Fernando.

ප : එතකොට ඔබතුමා ඒ හැම ආරක්ෂක මණ්ඩල රැස්වීමකටම 2015 ජනවාරි මාසේ 09 වෙනිදා ඔබතුමන්ලාගේ රජය බලයට පත් වුණ අවස්ථාවේ පටන් ඔබතුමන්ට අවශ්‍ය න වශයෙන් ඒ රැස්වීම් සඳහා සහභාගි වීමට හැකියාව තිබුණ 2018 ඔක්තෝම්බර් 26 දක්වා වූ කාලය තුළදී ඒක සිදු වුණාද?

උ : මම හැම රැස්වීමටම සහභාගි වුණේ නෑ. සමහර විට මං කොළඹින් නැක්නම් රටින් පිට හිටියා. මොකද මේවා අපිට දැනුම් දුන්නේ සමහර වෙලාවට පැය 24 ක් 48 කට ඉස්සෙල්ලා. ඉස්සර වගේ එක දිනයක් නෑ. ඒ නිසා සමහර විට වෙන මොකක් හරි දාලා තියෙනවා නම් ඒවා කල් දා ගත්න බැරි ඒවා තියෙනවා.

ප : එතකොට ඔබතුමා කියන ආකාරයට ඒ වගේ කෙටි දැනුම්දීමකින් රැස්වීමක් පවත්වන කොට ඒ සඳහා සුදානම් වීමට අනෙක් වැඩ කටයුතු සමඟ ඒවා ගළපා ගැනීමට ඒ කරුණු සම්බන්ධයෙන් යම් බාධාවන් අවහිරතාවයන් ඇති වුණාද?

උ : තිබුණා. මොකද අපි අගමැති හැටියට ඇමතිවරු හැටියට අපි සමහර විට සති ගණන්වලට දින දීලා තියෙනවා.

ප : දින දීලා තියෙනවනේ?

උ : සමහර විට විවාහයකට ගිහින් නැකැත් වෙලාවට අත්සන් කරන්න තියෙනවා එහෙම කරාම තමයි පුළුවන් විදිහට අපි සකස් කර ගෙන ගියේ. පුළුවන් තරම් යන්න තිබුණා ඒකයි.

ප : ඉනින් ඔබතුමලා ඒ අවස්ථාවල්වලදී මේ තියෙන ප්‍රායෝගික ප්‍රශ්න පිළිබඳව නිටපු ගරු ජනාධිපතිතුමාට දැනුම් දුන්නේ නැද්ද මං ඔබතුමාගෙන් ඒක අහන්නේ ඔබතුමා පසුගිය අවස්ථාවේදී මගේ ප්‍රශ්නයකට පිළිතුරු දෙන ගමන් සඳහන් කෙරුවා මේ රැස්වීම් පැවැත්වීම සිදු කරන්නේ ගරු ජනාධිපතිතුමා විසින් නියම කරනු ලැබූ ඔවුන් තමයි දැනුම් දෙන්නේ කියලා රැස්වීම පවත්වනවාය කියලා ඔබතුමාට?

පි : නෑ නෑ මම කියලා තිබුණා වතාවක් දෙකක් මේ නැත්නම් එක දිනයක දා ගන්න නැත්නම් කල්වේලා දෙන්න කියලා. අනිත් එක ජනාධිපතිතුමා කිව්වේ ඉතින් මේ බුද්ධි අංශයෙන් මට මේ ගැන වාර්තා කරනවා ඉතින් වුවමනා වෙලාවට ඒවා කැඳවනවා කියලා.

ප : එතකොට ඒ වගේම නමුත් 2015 ට ඉස්සෙල්ලා වගේ 2015 ඉඳලා ඔබතුමා ඔය රැස්වීම් සඳහා සහභාගි වුණ 2015 ඔක්තෝම්බර් මාසේ 26 වෙනිදා දක්වා වූ කාල පරිච්ඡේදය තුළදී සතිපතා ඒ රැස්වීම් පැවැත්වුණේ නැනේ?

පි : නෑ 2015 න් පස්සේ සතිපතා පැවැත්වුයේ නැහැ.

(Proceedings of 13th October 2020, pages 7-8)

The reasons for the inability of Prime Minister Wickremasinghe to attend the NSC when it is fixed at short notice due to other commitments are acceptable as previously the practice was to have it on every Wednesday of the week. This gives the participants the opportunity to arrange the schedule in advance. President Sirisena changed this and fixed NSC meetings on an ad-hoc basis.

However, the evidence that Prime Minister Wickremasinghe did not stay on for some of the full meetings of the NSC was not explained by him. This taken in isolation is insufficient to make any adverse findings against him. However there are other instances that reflect a lenient approach on his part to national security issues.

The COI has examined in detail in chapter 4, the violence directed by Wahhabis against traditional Muslims namely the Sufi community. Prime Minister Wickremasinghe acknowledged that they were aware of this development. However no positive action appears to have been taken.

ප : දැන් ඔබතුමලාගේ ඔය රාජකාරී කටයුතුවලදී ඉස්ලාම් අන්තවාදය සම්බන්ධයෙන් වාර්තාවන් බුද්ධි අංශය විසින් ඉදිරිපත් කරනු ලැබුවද?

පි : ඉස්ලාම් අන්තවාදය ගැනත් ආවා. රටේ තිබුණ වෙනත් පාගමික අන්තවාදය ගැනත් ආවා.

ප : එතකොට සිංහල යම් යම් සංවිධාන මඟින් අන්තවාදී අදහස් ප්‍රකාශ කිරීම පිළිබඳව ඔබතුමාලට වාර්තා වුණා?

පි : ඔව් වාර්තා වුණා.

ප : ඒ වගේම ඉස්ලාම් ජන කොට්ඨාශයට අයත් අය දරන අන්තවාදී අදහස් සම්බන්ධවත් ඔබතුමන්ලාට වාර්තා වුණා?

පි : ඔව් අන්තවාදී මේවා ගැනත් වාර්තා වුණා. ඒ වගේම ඉස්ලාම් ආගමේ තිබුණේ අර මධ්‍යස්ථ සම්ප්‍රදායික අය නැති කරන්න ගත්ත පියවරක් තිබුණා. ඒක බුද්ධාගමේ අනිත් පාගම්වල තිබුණේ නෑ. වචනයෙන් තමයි ඒවා සිදු වුණේ. මෙතන අර මේ මධ්‍යස්ථ සාම්ප්‍රදායික ඉස්ලාම් අය නැති කිරීමේ ක්‍රමවේදයක් තිබුණා වෙන ආගමක ඒක තිබුණේ නෑ අන්තවාදය තිබුණා.

ප : ඔබතුමාගේ පිළිතුරට මා ඇක්කටම ස්තුතිවන්න වෙනවා. මොකද ඔබතුමා මට අවකාශයක් ලබා දුන්නා ඒ සඳහා ප්‍රවිෂ්ටයක් ලබා ගන්නු. දැන් නිටපු ගරු අග්‍රාමාත්‍යතුමනි ඔය පාරම්පරික ඉස්ලාම් ආගම අදහන මුස්ලිම් ජන කොට්ඨාශයත් ඒ වගේම යම් යම් අන්තවාදී අදහස් දරන මුස්ලිම් ජන කොට්ඨාශයත් මේ සැමෝම ලංකාවේ එකම මවකගේ දරුවොනේ?

පි : ඔව්.

ප : සිංහල, ද්‍රවිඩ, බර්ගර් වගේ තමයි ඒ ගොල්ලොත්?

පි : ඔව්.

ප : නමුත් ඔබතුමාලාව දැනුවත් වන්නට ඇති නේද විශේෂයෙන්ම නැගෙනහිර ප්‍රදේශයේ එහි කාත්තන්කුඩිය කියන ප්‍රදේශයේ ඔය පාරම්පරික මුස්ලිම් ඉස්ලාම් ආගම අදහන ජන කොට්ඨාශයක් ඒ වගේම ඔය අන්තවාදී අදහස් ප්‍රකාශ කරන ජන කොට්ඨාශයක් අතර නිරතුරුව ගැටුම් තිබුණාය කියලා?

සි : ඔව් මං හිතන්නේ කාත්තන්කුඩි ප්‍රදේශයේ ඉඳන් සාමාන්‍යයෙන් කල්මුණේ දක්වා තමයි ඔක වැඩියෙන්ම ඔතන තිබුණේ.

ප : එතකොට දැන් ඒ වගේ ඔබතුමන්ලාගේ අවධානයට ඒ කරුණ යොමු වුණාම එතකොට මේ සාමකාමීව ජීවත් වෙන්නට කැමතියි අර පාරම්පරික මුස්ලිම් බැතිමතුන්ට සාමකාමීව ජීවත් වන්නට අවස්ථාවක් ලැබෙන්නේ නෑ මේ අන්තවාදී අයගේ අදහස් නිසා?

සි : ඔව්.

ප : ඔවුන්ගේ හැසිරීම නිසා?

සි : ඔව්.

ප : එතකොට රජයක් විදිහට ඔබතුමන්ලා ඒ සම්බන්ධයෙන් මොකක්ද ගත්ත පියවර?

සි : අපි කිව්වා හැමවෙලේම ඒ ගොල්ලො ආරක්ෂා කරන්න ක්‍රියා කරන්න මොකද මං දේශපාලනය ගැන කියනවා නම් අපේ එක්සත් ජාතික පක්ෂය මුස්ලිම් අය ආවේ විශේෂයෙන්ම සාම්ප්‍රදායික මුස්ලිම්වරු.

ප : ඔව්.

සි : ඉතින් ඒ නිසා එහෙම ප්‍රශ්න ගණනාවක්

ප : ගැටුම් ඇති වෙන්නේ නෑ එතකොට?

සි : නෑ අපිට වැඩිපුර බලපෑමක් ආවා ඒ ගොල්ලො ආරක්ෂා කරලා දෙන්න කියලා.

ප : කොහොමද ඔබතුමන්ලා ඒ සම්බන්ධයෙන් පියවර ගත්තේ?

සි : පොලීසියට දැනුම් දුන්නා. අපේ ඇමතිතුමාට එහෙම දැනුම් දුන්නා ප්‍රශ්න තියෙන කොට.

අප් ක්වා මේකේදී ටිකක් කල්පනාවා කාරිව මේ පාර්ශව දෙකට අමතන්න ඕනේ කියලා ඒක පිළිගන්න කැමති වුණේ නැහැ. ඒ කියන්නේ ඒ ඒක පිළිගන්න කැමති වුන් නැහැ කියන එකෙන් මට තේරුණේ ඒ අයි ඉදිරිපත් කරපු සියලුම දේ පිළිගත්තේ නැහැ.

(Proceedings of 13th October 2020, pages 9-10)

Former Army Commander General Krishantha De Silva testified that Mr. Wickremasinghe did not accept intelligence presentations about the rising Islam extremism in the country and in particular in the East. This position was put to Mr. Wickremasinghe who denied it. However the evidence of former

Army Commander General Krishantha De Silva was corroborated by President Sirisena.

ප: එතුමා ගරු අගමැතිතුමා කොයි අකාරයට ද ඒ කියන්නේ ඔහුගේ ප්‍රතිචාරය ඔබගේ මෙම ඔබලාගේ මෙම ඉදිරිපත් කිරීම ප්‍රතිචාර දැක්වූ ආකාරය ඔබට මතකයක් තියේද?

සි: මට සාමාන්‍ය දුරට මතකයි මේ මතකයේ

ප: ඔබේ මතකය හැටියට?

සි: මේ වචනම නොවෙන්න පුළුවන් මෙන්න මෙහෙම කිව්වා No,No that cannot happen that's not what is අන්න ඒ වගේ ටිකක් අර aggressively ඉදිරිපත් කලා. එතකොට දැන් එහෙම කියන කොට දැන් මගේ නිලධාරින් මට ඒක ප්‍රශ්නයක් වුන් නැහැ මම යුධ හමුදාපති හැටියට මට තියෙනවා constitutional obligations මම ඒවාට වගකියන්න ඕනේ මගේ chain of command එකක් තියෙනවා මං ඉදිරිපත් කරන ඒවා ඉදිරිපත් කරන්න ඕනේ . නමුත් මගේ නිලධාරින් කණිෂ්ඨ නිලධාරින් ඒ අය පසුබට වෙනවා එහෙම කිව්වම තවදුරටත් ඒවා ඉදිරිපත් කරන්න

ප: මා ඔබගේ පිළිතුර වටහා ගත්තා නම් නිවැරදිව ඒ කියන්නේ අගමැතිතුමා වන රනිල් වික්‍රමසිංහ මහතා ඒ අවස්ථාවේදී ඔබ යුධ හමුදා බුද්ධි අධ්‍යක්ෂක මණ්ඩලය විසින් ඒ කරන ලද බුද්ධි මෙහෙයුම් වලින් සොයාගෙන ඉදිරිපත් කරන ලද ඒ තොරතුරු ඔහු පිළිගත්තේ නැහැ කියන එක ?

සි: සමහර අවස්ථාවලදී.

ප: නැහැ මෙම සිද්ධියට අදාලව ?

සි: මෙම සිද්ධිය පිළිගත්තේම නැහැ.

ප: ඔහු ඒ කියන්නේ ඔහු ඔබලා විසින් ඒ ඉදිරිපත් කරපු ඒ තොරතුරු අභියෝගයට ලක්කිරිමක්ද ඔහු කරේ ? he challenged that it can not be so

සි නැහැ He just flatly refused to accept what we presented what my officer presented

(Proceedings of 2nd October 2020, pages 3-4)

The soft approach of Prime Minister Wickremasinghe to Islam extremism is also corroborated by his conduct when the issue of banning the nikab and burkha was raised by former Army Commander General Khrishantha De Silva

at the NSC in 2015 or 2016. He opposed it and took time to consult Muslim parties. It appears that this topic was never discussed at the NSC again.

ප : හිටපු ගරු අග්‍රාමාත්‍යතුමනි යම් අවස්ථාවකදී ආරක්ෂක මණ්ඩලයේ නිකාබ් පැළඳීම පිළිබඳව මුස්ලිම් ජන කොට්ඨාශයේ කාන්තාවන් විසින් එය ප්‍රශ්නයක් විදියට ජාතික ආරක්ෂාවට යම් ආකාරයක තර්ජනයක් වන බවට අදහස් ප්‍රකාශ කිරීමක් එතන හිටපු නිලධාරින්ගෙන් සිදු වුණාද?

පි : හිටපු යුධ හමුදාපති සිල්වා මැතිතුමා එක සැරයක් කිව්වා අපි මේ හැම තැනම සෝදිසි කරනකොට තමයි ප්‍රශ්නය තියෙන්නේ. ඉතිං අපි හොඳ නැද්ද එය මේවා තහනම් කරන්න. ඉතිං අර ...,

ප : ඔය මොන වකවානුවේ වගේද?

පි : 2017 වීකර. 16, 17 දී ඒ කාලයේදී වුණ එකක්. මට මතකයි මේක සිදු වුණේ අර ප්‍රංශයේ එහෙම මේක තහනම් කරලා තිබුණා. ඒ ගැන කරා කරනකොට තමයි මේ අදහස ඉදිරිපත් වුණේ. මම කිව්වා මෙහෙමයි මේක කළොත් අන්තවාදීන්ගේ අතට අපි ආයුධයක් දීලා මධ්‍යස්ථවාදී සම්ප්‍රදායිකවාදී ඉන්න අය දුර්වල කරනවා. අපිට එතකොට එන තොරතුරු නවතින්න පුළුවන්. මේක අපිට සිදු වුණා 1983 කෝලාහලවලින් පස්සේ දෙමළ අයගෙන් ආව තොරතුරු ඔක්කොම නැවතුණා. මම දන්නවා 1984 ලලිත් ඇතුලත්මුදලි ඇමතිතුමාට මේක අළුතින් සම්පූර්ණයෙන් ඇති කලා, ඉතිං දැන් අපට තොරතුරු එනවා, ඇත්ත වශයෙන්ම අපිට තොරතුරු ආවා මාර්තු මාසය වෙනකම්. ඒ නිසා මෙතන ටිකක් අපි බලන්න ඕන. මොකද මුස්ලිම් කාන්තාවන් සාරිය ඇඳගෙන මුහුණ වහගෙන ගිය එක ඉස්සරලා තිබුණා. මේක වුණේ දැන් සාරිය වෙනුවට මේතන අදිනවා ස්වල්ප දෙනෙක්ගේ අපි ගන්න කියාවලින් ත්‍රස්තවාදීන්, අන්තවාදීන්ව දුර්වල කරනවා මිසක් මේවා කරන්න එපා කියලා. දෙවනුව මේක මමත් කරා කළා මම කිව්වා මේක මේ ප්‍රංශය වුණේ එහෙම කරනවා කිව්වහම මම කිව්වා ප්‍රංශය ඔය කළාට එංගලන්තයෙයි, ඇමෙරිකාවෙයි කළේ නැහැ. රටවල් ගණනාවක් කළේ නැහැ යුරෝපයේ කළේ. ඇත්ත වශයෙන්ම මම ඒ පාර කිව්වා එංගලන්තයේ එක්සත් රාජධානිය කිව්වා ඉරාකයට ගිහින් සටන් කරද්දි ප්‍රංශය ආවේ නැහැ. දැන් මොනවටද මේක තහනම් කරන්නේ, ඒ කරනවා නම් අපි කරන්න ඕන කියලා. ඔය කරා දෙක තමයි මම කිව්වේ නැත්නම් වෙන හේතුවකට නෙමෙයි. මමත් හිතුවේ මෙහෙම තහනමක් දැම්මානම් ඔය අන්තවාදීන් සියළු දෙනාම ඇවිල්ලා ඉතුරු මධ්‍යස්ථවාදී හා සම්ප්‍රදායකවාදී අය නැති වෙනවා. අනික 1983 තිබුණ අත්දැකීම අනුව අපිට එන තොරතුරු එක කඩන්න හොඳ නැහැ. Information process with the best result මෙතන ඒ කාලයේ එක පැත්තකින් L.T.T.E. ය වෙඩි තිබ්බා. ඉතුරු වෙලා තියෙන අය 83 න් පස්සේ අපි ඔක්කොම ජාතිවාදී කියලා කැඟැහුවට තොරතුරු ආවේ නැහැ. ඉතිං යළින් ඒවා හදන්න අවුරුදු දෙකක් ගියා. නැත්නම් යුද්ධය ඊට වඩා ඉස්සරහින් අපිට යන්න තිබ්බා. මම කිව්වා එතුමාට 83 ත් අපි මේ ප්‍රශ්නය ඇති කළා.

(Proceedings of 13th October 2020, pages 28-29)

The stand Prime Minister Wickremasinghe took on the nikab and burkha was in spite of his knowledge that this type of dress appeared in Sri Lanka with the advent of Wahhabis ideology.

ප : ඔබතුමාට යම් අවස්ථාවකදී දැන ගන්න ලැබුණද දැන් මේ මුස්ලිම් ජන කොට්ඨාශයට අයත් අය විශේෂයෙන්ම මේ 1977 විවෘත ආර්ථිකය ශ්‍රී ලංකාවට හඳුන්වා දුන්නට පස්සේ මේ මැද පෙරදිග රටවල්වල ආභාෂය නිසා ඔවුන්ගේ ඇඳුම් පැළඳුම් වෙනස් කරන ලද බව විශේෂයෙන්ම කාන්තා පක්ෂය?

පි : ඇත්ත වශයෙන්ම මේක මං හිතන්නේ ඔය මැද පෙරදිගට ගියායින් පස්සේ 80 දශකයේ අවසානයේ 90 දශකයේ දැක්ක එකක්. 77,78 වගේ තිබුණේ නෑ ඒ කාලේ.

ප : නෑ 77 තිබුණේ නෑ?

පි : නෑ.

ප : නමුත් විවෘත ආර්ථිකයක් සමඟ නේද අනිත් රටවල් එක්ක විවෘතව කටයුතු කරන්නට ශ්‍රී ලාංකිකයින්ට හැකි වුණේ?

පි : ඉස්සෙල්ලත් තිබුණා මං හිතන්නේ මගේ මේක අනුව මම ඔය වහාබ්වාදය එන අවස්ථාවේදී තමයි ඕක ආවේ. වහාබ්වාදය සාමාන්‍යයෙන් පැකිරෙන්න පටන් ගත්තේ ලෝකේ 80 දශකයේ මැද නැන්තම් අන්තිම කාලයේදී. වහාබ්වාදය එක්ක තමයි මේක ඇති වෙන්නේ වහාබ්වාදයයි මැද පෙරදිගට රැකියාවලට ගියාම අර මේක වැඩි වෙන කොට.

(Proceedings of 13th October 2020, pages 16-17)

Prime Minister Wickremasinghe further testified that the Government did not ban the IS organization because there were no reports mentioning that ISIS propaganda was taking place in Sri Lanka and that there were only reports on individuals spreading the ISIS ideology.

ප : ඇයි ඔබතුමන්ගේ රජය කාලේ IS සංවිධානය තහනම් කිරීම සඳහා කිසියම් නීතිමය ක්‍රියාමාර්ගයක් නොගත්තේ?

පි : ඇත්ත වශයෙන්ම ISIS සංවිධානයක් මෙහේ ක්‍රියාත්මක වෙනවා කියන වාර්තාවක් තිබුණේ නෑ. ISIS සංවිධානයේ අදහස් තියෙන පුද්ගලයන් හිටියා. ඒකයි විශේෂයෙන් මම කිව්වේ මේ ISIS සංවිධානයේ ප්‍රශ්නය තිබුණේ අල්කයිඩා අනිත් ඒවාට වඩා Internet එකෙන් බැඳිලා වැඩ කරන එක. ඒ නිසා Internet membership එක ගැන සාමාජිකත්වය ගැන තමයි මේකයි ඔකන තිබුණේ ලොකුම ප්‍රශ්නේ. IS එක අනිත්වට වඩා මේ Internet එක කියවලා එකෙන්ටම ඇදිලා යන එක ගැන.

ප : යම් ආකාරයකට තහනම් කිරීමක් කළා නම් ඒ Internet එකෙන් හරි තොරතුරු එක්කහු කරලා ඒවායේ නිරත වීමක් මර්දනය කිරීමට හැකියාවක් තිබෙනවා කියලා ඔබතුමන්ට හිතුණේ නැද්ද?

පි : අපිට වාර්තාවක් තිබුණේ නෑ එහෙම කියලා යෝජනා තිබුණා නම් ISIS එක. එතකොට අපි සාකච්ඡා කරලා අඩුගාණේ අපි අතරේ විවාදයක් තියෙනවා. ඒ තත්ත්වෙටවත් ආවේ නෑ ඒ ගැන බලන්න විශේෂයෙන්.

(Proceedings of 13th October 2020, page 22)

However he admitted that he and the Government were aware that the IS had identified Sri Lanka as part of the Caliphate declared by it around 2016. The Caliphate declared by the IS envisaged an Islamic State in the world where amongst other attributes, sharia law will be implemented similar to the several Caliphates in the world previously.

ප : ඔබතුමන්ලාගේ රජය 2016 දී විතර දැනුවත් වීමක් සිදු වුණාද IS සංවිධානය විසින් ප්‍රකාශයට පත් කරන්නට යෙදුණු කැලිෆෙට් එක නැත්නම් ඉස්ලාම් රාජ්‍යයේ කොටසක් වශයෙන් ශ්‍රී ලංකාව හඳුනා ගෙන තිබ්බා කියලා?

පි : ඔව් අපි දැන ගෙන හිටියා කැලිෆෙට් එකක් මොකද IS සංවිධානය මං හිතන්නේ 2014 හෝ 2015

(Proceedings of 13th October 2020, page 54)

In the light of this evidence the COI finds it difficult to understand the reason for the failure on the part of the Government including Mr. Wickremasinghe to have taken a more proactive role to combat the rising Islam extremism. On 27th November 2017, an interview with Prof. Rohan Gunaratna was published in *Ceylon Today* wherein he highlighted that there are a few hundred IS supporters in Sri Lanka and that the IS is spreading like wildfire in South Asia. He urged the Government to be proactive rather than reactive and emphasized the need to create a legal framework to prevent incitement of ethnic and religious hatred.

Unfortunately, the Government of the day including Prime Minister Wickremasinghe failed to do so. Several witnesses testified that the Government was reluctant to take strong action against rising Islamic extremism due to its dependence on support from the Muslim political parties. The evidence before the COI corroborates this position.

Prime Minister Wickremasinghe admitted that during the NSC meetings Zaharan's name had come up for extremist religious activities. He had then suggested that action be taken according to the International Covenant on Civil and Political Rights Act and to get instructions from the Attorney General. The need to do so is questionable given that several sermons of Zaharan was prima facie in violation of the International Covenant on Civil and Political Rights Act.

The evidence before the COI is that Minister Sagala Ratnayake was the Minister of Law and Order and Southern Development, the Police department came under this Ministry until 26th October 2018, and he was reporting to Prime Minister Wickremasinghe about the developments on Islamic extremism. In fact Prime Minister Wickremasinghe testified that a separate

branch was opened in the TID to look into Islam extremism under DIG Nalaka De Silva. Notwithstanding these actions Zaharan was not arrested.

ප : ඉතින් එහෙම නම් මේ සහරාන්ව විකරක් ඇයි අත්අඩංගුවට ගන්නට බැරි වුණේ?

සි : මට කියන්නට බෑ මම බැලුවේ ඒක ප්‍රශ්නයක් ඇයි බුද්ධි අංශයෙන් අඩු ගාණේ නීතිය සාමය ඇමතිවරයාට හරි කිව්වේ නැත්තේ කියලා මේක.

ප : නීතිය හා සාමය ගරු ඇමතිවරුන්ටත් ඔවුන් කාලීනව වාර්තා කිරීමක් කරලා තිබ්ලා තිබුණා. ඒ පිළිබඳවත් මේ ගරු කොමිෂන් සභාවට සාක්ෂි ඉදිරිපත් වෙලා ඇතැම් ගරු නීතිය හා සාමය පිළිබඳ ඇමතිවරුත් මෙහි සාක්ෂි දීලා තියෙනවා?

සි : මේ ගැන.

ප : ඒ යම් යම් අවස්ථානුගත කරුණු පිළිබඳව.

සි : මේ පොලිස්පතිතුමා ක්‍රියාත්මක නොකෙරුවා නම් පොලිසියෙන් එහෙනම් කියන්න තිබුණා ජනාධිපතිතුමාට. ඒක මෙතන දාලා තියෙනවා.

(Proceedings of 13th October 2020, page 14)

After the constitutional crisis in October 2018, Prime Minister Wickremasinghe did not take part in NSC meetings. However, even after his appointment as Prime Minister in December, 2018, he was not invited by President Sirisena for any NSC meetings. The COI sees no justifiable reason for the failure to do so on the part of President Sirisena. However, it was incumbent on the Prime Minister to have raised this in Parliament or at the Cabinet in order to ensure that the status quo is restored. The failure on the part of Prime Minister Wickremasinghe to do so and after the Easter attack take up the position that he was not invited is unacceptable.

Upon a consideration of the evidence, it is the view of the COI that the lax approach of Mr. Wickremasinghe towards Islam extremism as the Prime Minister was one of the primary reasons for the failure on the part of the then

Government to take proactive steps towards Islam extremism. This facilitated the build-up of Islam extremism to the point of the Easter Sunday attacks.

3. Secretary Defence Hemasiri Fernando

Mr. Fernando functioned as Secretary of Defence for the period from 30th October 2018 (letter of appointment marked C 1136) to 25th April 2019. He was appointed to this post by then President Maithripala Sirisena while he was holding the positions of Chief of Staff of the President (which post he held until 07th November 2018), Chairman of People's Leasing (which post he held until April 2019), Chairman of Board of Investment of Sri Lanka (which post he held until March 2019) and Chairman of National Railway Museum Committee.

In terms of the Gazette marked C 938, he held responsibility of the institutions listed under his designation. Mr. Fernando admitted (proceedings dated 19.09.2020, page 3) that the responsibility of the operation of institutions under the Minister's control lay with the Secretary who is also the Chief Accounting Officer. The Offensive Weapons Act, Explosives Act, Prevention of Terrorism Act and Suppression of Terrorist Bombing Act were identified as falling within his responsibility.

In terms of Article 52(2) of the Constitution, the Secretary to a Ministry shall, subject to the direction and control of his Minister exercise supervision over the departments of government and other institutions in charge of the Minister. The COI will examine the accountability of Hemasiri Fernando in the context of the above legal framework.

During his tenure, Hemasiri Fernando had participated in four NSC meetings prior to the Easter Sunday attacks and one after (i.e. on 22nd April 2019).

He admitted that at all four NSC meetings prior to the attacks, there had been discussion about Islamic extremism and activities of NTJ [proceedings dated 17.09.2020, page 36].

The COI will examine the knowledge of Hemasiri Fernando of Zaharan and his activities.

Mr. Fernando admitted [*proceedings dated 19.09.2020, page. 45*] that the Director of SIS had brought to his attention the motivation given by ISIS to its sympathizers to launch attacks and on the activities of NTJ and Zaharan around mid-November 2018. However, his position was that reports of this genre were of no value since they did not contain specific information and were mere reports which he received by hundreds. Furthermore, he testified that the said report did not mention transition of violent extremists to a phase of terrorism. His further contention was that it was a report made on assumptions in view of the forthcoming festive season rather than on solid information. Even though he stated that intelligence reports were faulty, he further testified that he had not taken measures to notify the intelligence officers of the fact that their reports did not meet the required standard since it was the responsibility of CNI to do so.

Around December 2018, Mr. Fernando had received warning of an attack from Islamic extremists in the near future. The witness' position was that the warning was not substantiated for him to act upon it, and IGP was informed about the same to take necessary actions since Sri Lanka Police was capable of taking preventive action.

Mr. Fernando stated that intelligence agencies did not divulge at any point of time that Zaharan had the capability to engage in terrorist activities [proceedings dated 18.09.2020, page 36]. Therefore, he did not consider it

possible for others to be motivated by Zaharan's preaching which was available online. In the following page of the proceedings, the witness admitted that he never read the PTA during his tenure of Defence Secretary.

However, by early January 2019, he was aware of the link between Zaharan and the Mawanella Buddha statute breaking incident. By this time the witness knew Zaharan was a wanted suspect and was also privy to the fact that the CID was trying to arrest him [proceedings dated 21.09.2020, page 27].

Mr. Fernando was by 19th January 2019 aware of the recovery of explosives at Wanathawilluwa on 16th January 2019. Even though he had appreciated the possibility of manufacture of explosives, action in relation to the said information had been limited to discussions at ICMs and pacification from CID, TID and SIS investigations. He had also limited himself to receiving the reports of the investigating agencies [proceedings dated 21.09.2020, page 31].

At the ICM held on 19th February 2019, Director SIS Nilantha Jayawardhena had briefed the participants about Zaharan and his transition from an extremist to violent extremist (proceedings dated 17.09.2020, page 19).

By mid-March 2019, Mr. Fernando was aware of the details of an attack on a mosque in Christchurch, New Zealand which occurred on 15th March 2019. He testified (proceedings dated 21.09.2020, page. 34) that he did not give any instructions to his subordinates in this regard.

It was admitted by Mr. Fernando that CNI Sisira Mendis had shown C4A to him on 08th April 2019, whereby the witness had identified it to be a very important information [proceedings dated 17.09.2020, page 7]. Thus, he had instructed the CNI to take it up before the Intelligence Coordination Meeting scheduled to be held on the following day (i.e., 09th April 2019). Further instructions were

given to inform the Director SIS of the same as Director was the 1st presenter at ICM.

It was the position of Mr. Fernando that C4A was not intelligence [proceedings dated 17.09.2020, page 11]. He further explained his understanding of the information contained in C4A [proceedings dated 19.09.2020, page 6]. He stated that the information was not analyzed since it did not contain the opinion of Director, SIS. Furthermore, he had understood the information to be of uncertain since it included a heading "Alleged plan of attack". Four possible methods of attack and a phrase "*the input kindly be enquired into and feedback given to us*" which he implied, to the witness, it was not conclusive and certain information on the attack. The witness had not felt a notion that the word "shortly" demanded early action to be taken since no time period was specified. Thus, he had instructed CNI to take it up at the ICM scheduled to be held on the following day (09.04.2019). He had not specifically instructed the CNI to add the information to the agenda of the meeting since he trusted CNI's experience and judgment [proceedings dated 19.09.2020, page 7]. However, later he changed his position and asserted that C4A contained intelligence [proceedings dated 17.09.2020, page 13].

In the end, the information in C4A was not discussed at the ICM on 9th April 2019. The evidence of Hemasiri Fernando, Secretary of Defence, Nilantha Jayawardena Director SIS and Sisira Mendis CNI differs on the actual events of the ICM. However all three agree that the intelligence received from the Indian intelligence was not discussed at the meeting. Director SIS states that he asked CNI to take up the matter. CNI states that he informed Secretary Defence "Sir, Nilantha's matter". Secretary Defence states that he asked Director SIS "Nilantha your letter?". Director SIS had replied that he is preparing a letter to be sent to the IGP and will do so shortly after the meeting.

Director SIS had not spoken about the contents of C4A at the ICM held on 9th April 2019. The witness who was well aware of the contents of C4A had not prompted the Director SIS to do so since he opined that SDIG Nilantha Jayawardhena would speak on the subject if he wished [proceedings dated 19.09.2020, page 10] CNI had shown the intelligence to the witness towards the end of the meeting. When the witness questioned Director SIS on why he had not spoken of it at the meeting, he had replied that a report was in the pipeline to be sent to the IGP. Director SIS Nilantha Jayawardhena had promised to send a further report to the witness, which response had satisfied him.

However, this is surprising given that Director SIS had briefed the participants of ICM about Zaharan and his transition from an extremist to violent extremist [proceedings of 17.09.2020, page 19]. Mr. Fernando should have got him to speak on the intelligence received. He took no further action on it until 18th April 2019.

The witness had received knowledge of the motorcycle explosion at Palamunai on 18th April 2019 from Director SIS via telephone. His position at [proceedings dated 18.09.2020, page 40] was that Director of SIS did not state the explosion to be a dry run conducted by Zaharan, connecting it with the information in C4A even though he did not exclude the possibility of him having mentioned the name of Zaharan. This is hard to accept given that the Director SIS had sent letters to the IGP referring to the incident and mentioning the name of Zaharan.

On 20th April 2019 at 16:53 the witness had received a WhatsApp message from SDIG Nilantha Jayawardhena which said:

> "Sir according to a foreign counterpart as per reliable input Saharan Hashim of National Thawheed Jamath of Sri Lanka and his associates

have hatched a plan to carry out an Isthihad attack in Sri Lanka. It is learnt further that they have conducted a dry run and caused a blast with explosives laden motor cycle at Palamunai near Kaththankudi in Sri Lanka on 16/04/2019 as part of their plan. It is learnt that they are likely to carry out their isthihad attack in Sri Lanka at any time on or before 21st April 2019. They have reportedly selected 8 places including a church and a hotel where Indians inhabit in large numbers. Further details awaited".

However, the witness had only seen the message after receiving a call from SDIG Nilantha Jayawardhena on 20.04.2019 at 18:02:16 for 202 seconds. Thereafter, at 18:23, the witness had replied *"Well received"* by which he had meant that he understood the message well. The witness could not recall the contents of the conversations held with Director SIS.

The position of Mr. Fernando was that he had not taken measures to immediately call a meeting with CNI, Director SIS and three forces commanders to counter the threat of attack since Director SIS had failed to recommend the action to be taken with regard to the information received [*proceedings dated 21.09.2020, page 84*]. Had he suggested that a meeting be held, the witness had been ready to do so or to inform the President at SDIG Nilantha Jayawardhena's cue. According to the witness, Director SIS had not informed the witness that the intelligence received on 4th April and 20th April were received from the same source.

It was contended by Mr. Fernando that he did not convey the intelligence received on either of the two days to President Sirisena for two reasons. He did

not have a good working relationship with President Sirisena. He knew that Director SIS conveyed information to President Sirisena directly.

According to the testimony of Mr. Fernando, he had considered his duty discharged when he sent the information in C4A to the IGP. It is his position that his duty ended thereon and transferred to the IGP to implement action to counter the threat. According to his evidence, he was ready to instruct the IGP if he required any assistance but no such request was made [proceedings dated 21.09.2020, page 56]

A CD containing a media encounter of the witness was marked C 1135 where he asserted that he had not expected an attack of "this magnitude" or an attack "so big". The witness' explanation to his remarks in the conversation was that he was thoroughly exhausted at the time of making the statement owing to the various responsibilities to be discharged in the aftermath of the attacks [proceedings dated 18.09.2020, page. 48]. The COI did not observe any signs of exhaustion on the part of the witness in the video.

The COI observes that Mr. Fernando has failed to act as required of the Secretary Defence. The omission to act on the intelligence received on 4th April 2019 is described above.

He should have at least acted immediately the moment he received the intelligence on 20th April 2019 along with calls from Director SIS. At a minimum he should have called a ICM and discussed the action to be taken. A responsibility was imputed on the witness by virtue of his office to take maximum steps to prevent or minimize the effects of a potential attack. In a backdrop of being aware of the possible date, places, perpetrators and means of the attacks, the witness had failed to take any positive and effective measures as the Secretary of the Defence Ministry of Sri Lanka in the discharge

of his duties. His sole action had been to inform the IGP and confer the responsibility on him to continue with any possible action which proved to be insufficient.

The witness, having failed to check whether the IGP took any effective measures, was not aware that the IGP's actions had been limited to a series of telephone calls to his immediate subordinates, which had flowed down the hierarchy to the OIC as established in evidence led before the Commission. However, the action had been limited to the telephone calls with no supervision, just as in the case between the witness and the IGP.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against Mr. Hemasiri Fernando under any suitable provision in the Penal Code.

4. CNI Sisira Mendis

The post of CNI was established to ensure coordination between intelligence agencies. That is the primary role of the CNI.

However he failed to ensure that the intelligence received on the 4th of April 2019 was shared with other intelligence agencies. This becomes critical given that the largest force of intelligence officials are with the DMI.

Even where the Director SIS failed to raise it at the ICM on 9th April 2019, he should have raised it as it was his primary duty to coordinate intelligence between agencies.

Alternatively once he received it in writing from Director SIS on 7th April, he should have at least shared the information with other agencies in writing.

This failure prevented crucial intelligence being shared which would have facilitated a coordinated attempt to locate the group. By this time the DMI did

have a substantial amount of intelligence and information on Zaharan and his group.

CNI Sisira Mendis knew of all the briefings on the activities of Zaharan. He should have realized the threat revealed by the intelligence.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against Mr. Sisira Mendis under any suitable provision in the Penal Code.

5. Director SIS Nilantha Jayawardena

He was the Director SIS from 2015 to 2019. The evidence placed before the COI reflects that from 2016 he has been sending reports and making presentations on Islamic extremism to the NSC and the ICM. However, the COI is not inclined to accept the full version of the facts pertaining to the contents of the presentations he has made in view of certain items of evidence.

He was providing the power point presentations from his laptop. At one point the COI thought it fit to subject the laptop for forensic examination and the report did indicate that some of the files have been altered at some point. Former State Minister of Defence Ruwan Wijewardena when shown the power point presentations stated that although Director SIS had made several presentations at the NSC meetings and ICM, they were not details as what was shown at the COI.

The focus of the inquiry of the COI is the failure on his part to duly analyse the intelligence that was received on 4th April 2019 and present it to the ICM and law enforcement agencies.

The first communication he makes in writing after receiving this intelligence is to the CNI by letter dated 7th April 2019.[74] It is titled "Information of an alleged plan of attack". The COI queried why the term 'alleged' was used when the foreign counterpart had not, his response was because it is "They say, we don't know".

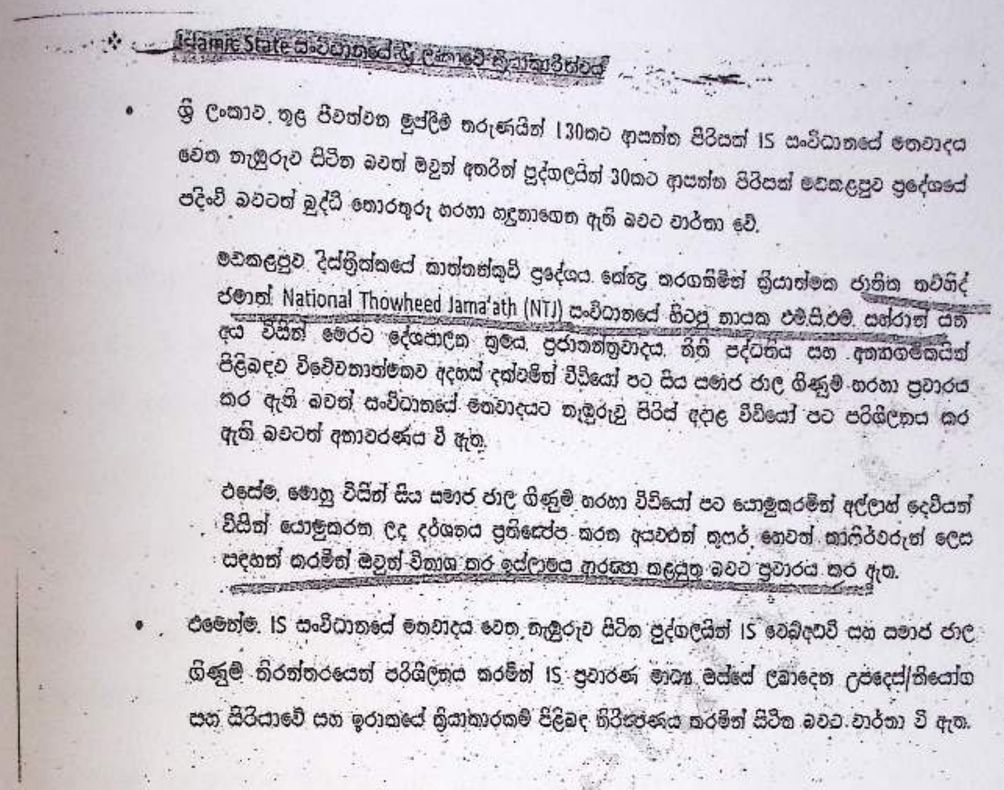
The COI fails to understand how this approach could have been adopted by the Director SIS when he himself had warned the NSC and the ICM about speeches of Zaharan's containing indications of violent extremism.

The subsequent conduct of Director SIS shows that he did not give due weightage to the intelligence given on 4th April 2019.

For example, President Sirisena was due to tour Batticaloa on 12th April 2019 for a series of functions. As is the practice, a threat assessment report was called from the SIS on the proposed tour. By letter dated 10th April 2019 a threat assessment report was sent to the DIG (Presidential Security Division) signed by the Director SIS. It stated that there is no threat to the President or the tour from terrorist, extremist or other groups.

However in the same report he mentions about Zaharan and states that his facebook uploads refers to persons who do not follow Islam as Kafirs and they should be destroyed and Islam protected (Fig. 1). Nothing is mentioned about the information received on 4th April 2019 from a counterpart which contained Zaharan's name.

[74] Exhibit X-113



Islamic State සංවිධානයේ ශ්‍රී ලංකාවේ ක්‍රියාකාරීත්වය

- ශ්‍රී ලංකාව තුළ පීවත්වන මුස්ලිම් තරුණයින් 130කට ආසන්න පිරිසක් IS සංවිධානයේ මතවාදය වෙත නැඹුරුව සිටින බවත් ඔවුන් අතරින් පුද්ගලයින් 30කට ආසන්න පිරිසක් මඩකළපුව ප්‍රදේශයේ පදිංචි බවටත් බුද්ධි තොරතුරු හරහා හඳුනාගෙන ඇති බවට වාර්තා වේ.

  මඩකළපුව දිස්ත්‍රික්කයේ කාත්තන්කුඩි ප්‍රදේශය කේන්ද්‍ර කරගනිමින් ක්‍රියාත්මක ජාතික තව්හිද් ජමාත් National Thowheed Jama'ath (NTJ) සංවිධානයේ හිටපු නායක එම්.සී.එම්. සන්රාන් යන අය විසින් මෙරට දේශපාලන තුමය, ප්‍රජාතන්ත්‍රවාදය, නීති පද්ධතිය සහ අන්‍යාගමිකයින් පිළිබඳව විවේචනාත්මකව අදහස් දක්වමින් වීඩියෝ පට සිය සමාජ ජාල ගිණුම් හරහා ප්‍රචාරය කර ඇති බවත් සංවිධානයේ මතවාදයට නැඹුරුවූ පිරිස් අදාළ වීඩියෝ පට පරිශීලනය කර ඇති බවටත් අනාවරණය වී ඇත.

  එසේම, මොහු විසින් සිය සමාජ ජාල ගිණුම් හරහා වීඩියෝ පට යොමුකරමින් අල්ලාහ් දෙවියන් විසින් යොමුකරන ලද දර්ශනය ප්‍රතික්ෂේප කරන අයවරුන් තුෆර් හෙවත් කාෆිර්වරුන් ලෙස සඳහන් කරමින් ඔවුන් විනාශ කර ඉස්ලාමය ආරක්ෂා කළයුතු බවට ප්‍රචාරය කර ඇත.

- එමෙන්ම, IS සංවිධානයේ මතවාදය වෙත නැඹුරුව සිටින පුද්ගලයින් IS වෙබ්අඩවි සහ සමාජ ජාල ගිණුම් නිරන්තරයෙන් පරිශීලනය කරමින් IS ප්‍රචාරණ මාධ්‍ය ඔස්සේ ලබාදෙන උපදෙස්/නියෝග සහ සිරියාවේ සහ ඉරාකයේ ක්‍රියාකාරකම් පිළිබඳ නිරීක්ෂණය කරමින් සිටින බවට වාර්තා වී ඇත.

Fig. 1

As more fully analyzed in Chapter 13, there were several reasons why Director SIS Nilantha Jayawardena should have taken the intelligence seriously after doing what is called a "Look Up" with the data base. He knew that Zaharan was was connected to the explosive cache found at Wanathawilluwa. Amongst other things the SIS had sent an internal memo dated 26th March 2019 informing the officers that there is a possibility of a launch of IS style attack if zaharan and the two brothers Sadeeq and Shahid continues to be in hiding.

All the evidence more fully discussed in Chapter 13, shows that the Director SIS did not take the intelligence seriously. It was the state of things until the Thalankuda blast occurred.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that

the Attorney General consider instituting criminal proceedings against SDIG Nilantha Jayawardena under any suitable provision in the Penal Code.

Chapter 20

Failures on the Part of the Law Enforcement Authorities

The Mandate of the COI requires it to identify all authorities who are responsible for failure to prevent the terrorist attacks that took place on 21st April 2019, and to identify the authorities, who failed to perform their duties and did not take proper action due to incapacity.

In this Chapter the COI examines the failure on the part of the law enforcement authorities to prevent the terrorist attacks.

The Sri Lanka Police is the entity vested with the responsibility of law enforcement in the country.

In order to better appreciate the accountability, it is useful to set out the structure of the Police department.

As at 31.10.2019, the Sri Lanka Police comprised of an approved cadre of 85,603 officers which was filled up to 77,011. The actual strength as at that time was 73,209 since the rest of the officers was either on vacation of post notice or under interdiction.

It has a territorial and functional division.

The territorial division administers Law and Order in the entire territory of Sri Lanka. Accordingly, there are nine SDIGs who are appointed for the nine Provinces. However SDIG Western Province is also entrusted with the subject of Traffic. Each SDIG of a Province overlooks several DIGs who overlook their respective Ranges.

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The Police structure in the areas within which certain incidents took place on 21st April 2019 which form the core of the mandate of the COI is set out below with the name of the respective officer holding the respective post.

Accordingly, the SDIG (Western Province and Traffic) (SDIG Nandana Munasinghe) had 4 DIG Ranges under him:

- DIG (Colombo Range) (DIG Lalith Pathinayake)
- DIG (Western Province North Range) (DIG Deshabandu Tennakoon)
- DIG (Western Province South Range) (DIG Wasantha Wickremasinghe)
- DIG (Kalutara Range) (DIG G.O. Perera)

Moreover, SDIG (Eastern Province) had 2 DIG Ranges under him;

- DIG (Trincomalee Range) (DIG Yatawara)
- DIG (Ampara and Batticaloa Range) (DIG Karunaratne)

Each DIG supervises Divisions. A Division can be headed by either a SSP or a SP. Each Division is divided into ASP Districts.

The DIG (Colombo Range) had three Divisions. They are Colombo Central Division (SSP Upali Jayasinghe), Colombo South Division (SP Nishantha De Soysa), and Colombo North Division (SP Sanjeewa Bandara).

The Colombo Central Division is divided into four ASP districts. They are:

i. ASP Central District I (SP WIckremasinghe) overlooking 4 police stations, namely Pettah, Keselwatte, Dam Street and Woulfendal.
ii. ASP Central district II (ASP Karunasinghe) overlooking 2 police stations, namely Slave Island and Fort (CI Sagara Liyanage).
iii. ASP Central district III (ASP D.K. Priyantha) overlooking 2 police stations, namely Maligawatte and Maradana
iv. ASP Colombo Central Traffic District (ASP Manoj).

The Colombo South Division is into three ASP Districts. They are:

i. ASP South district I (ASP Dayaratne) overlooking 2 police stations, namely Bambalapitiya and Kollupitiya.
ii. ASP South District II (SP Roshan Dias) overlooking 3 police stations, namely Narahenpita, Wellawatta and Kirulopone.
iii. ASP South District III (ASP Randeniya) overlooking 3 police stations, namely BMICH, Cinnamon Gardens and Borella.

The Colombo North Division is divided into 3 ASP Districts. They are:

i. ASP North district I (SP Nawgalage) overlooking 2 police stations, namely Foreshore and Harbour.
ii. ASP North District II (ASP Abeywardena) overlooking 4 police stations, namely Mattakuliya, Bloemandal, Kotahena and Modara.
iii. ASP North District III (ASP Ratwatte) overlooking 2 police stations, namely Dematagoda and Grandpass.

The DIG (Western Province North Range) had three divisions. They are Kelaniya Division (SP Roshan Dias), Gampaha Division (SSP Wijesinghe), Negombo Division (SSP Chandana Athukotala).

The Kelaniya division is divided into 5 ASP Districts.

i. ASP Kelaniya District I (SP Ariyasena) overlooking 2 police stations, namely Kiribathgoda and Paliyagoda.
ii. ASP Kelaniya District II (ASP Liyanage) overlooking 3 Police Stations, namely Kandana, Ja-ela, Wattala.
iii ASP Kelaniya District III (ASP Gunarathne) overlooking 3 Police Stations, namely Kelaniya, Biyagama and Sapugaskanda.
iv. ASP Kelaniya District IV (ASP Herath) overlooking 2 police stations, namely Meegahawatte and Kadawatha.
v. ASP Kelaniya District (ASP Dayananda) overlooking 2 Police stations, namely Mahabage and Ragama.

The Gampaha Division is divided into 6 ASP Districts.

i. ASP Gampaha District I (SP DE Silva Senapathi) overlooking 2 police stations, namely Ganemulla, Minuwangoda and Gampaha.
ii. ASP Gampaha District II (ASP Samaranayake) overlooking 3 police stations, namely Yakkala, Malwatuhiripitiya and Weeragula.
iii. ASP Gampaha district III (ASP Thusitha Kumara) overlooking 3 police Stations, namely Pugoda and Dompe.
iv. ASP Gampaha District IV (ASP B.R.D.D.B.A.S. Banayake) overlooking 2 police stations, namely Weliweriya and Kirindiwela.

v. ASP Gampaha District (ASP Rajapaksha). vi. ASP Attanagalla District (SP De Silva) overlooking 4 police stations, namely Pallewela, Mihirigama, Veyangoda and Nittambuwa.

The Negombo division is divided into 4 ASP Districts.

i. ASP Negombo District I (ASP Rifard) overlooking 3 police stations, namely Airport, Kochchikade and Negombo.
ii. ASP Negombo District II (ASP Pussella) overlooking 3 police stations, namely Seeduwa, Katunayake and Raddolugama.
iii. ASP Negombo District III (ASP Sisila Kumara) overlooking 3 police stations, namely Katana, Kotadeniyawa and Dungalpitiya.
iv. ASP Negombo District IV (ASP Kumarasekara) overlooking 2 police stations, namely Pamunugama and Divulpitiya.

The DIG (Western Province South Range) has two divisions. They are Nugegoda Division (SP Ranasinghe) and Mount Lavinia Division (SSP Pussalla).

The Nugegoda Division is divided into 7 ASP Districts.

i. ASP Nugegoda District I (SP Sigera) overlooking 2 police stations, namely Maharagama and Mirihana.
ii. ASP Nugegoda District II (SP De. S. Jayasinghe) overlooking 2 police stations, namely Gothatuwa and Wellampitiya.
iii. ASP Nugegoda District III (ASP Piyasekara) overlooking 2 police stations, namely Talangama and Welikada.
iv. ASP Nugegoda District IV (ASP Weerasinghe) overlooking 4 police stations, namely Kottawa, Homagama, Meegoda and Boralesgamuwa.

v. ASP Nugegod District V (ASP Perera) overlooking 2 police stations, namely Mulleriyawa and Athurugiriya.

vi. ASP Homagama South District (ASP Karunarathne) overlooking 3 police stations, namely Hanwella, Padukka and Nawagamuwa.

vii. Traffic

The Mt. Lavinia Division (SSP Pussella) is divided into 5 ASP Districts.

i. ASP Mt. Lavinia District I (ASP Jayasekara) overlooking 2 police stations, namely Angulana and Mt. Lavinia.

ii. ASP Mt. Lavinia District II (ASP Wedage) overlooking 2 police stations, namely Kohuwala and Dehiwala.

iii. ASP Crime & Operation III (ASP De Silva) overlooking 2 police stations, namely Kahathuduwa and Maththagoda.

iv. ASP Moratuwa District IV (ASP Krishantha) overlooking 3 police stations, namely Moratumulla, Moratuwa and Egodauyana.

v. ASP Traffic (ASP Kandewaththa) pverlooking 1 police station, namely Piliyandala.

The DIG (Western Province North Range) had three Divisions. They are Kelaniya Division (SP Roshan Dias), Gampaha Division (SSP Wijesinghe) and Negombo Division (SSP Chandana Athukotala).

The Negombo Division is divided into 4 ASP Districts.

i. ASP Negombo District I overlooking 3 police stations, namely Airport, Kochchikade and Negombo.

ii. ASP Negombo District II overlooking 3 police stations, namely Seeduwa, Katunayake and Raddolugama.

iii. ASP Negombo District III overlooking 3 police stations, namely Katana, Kotadeniyawa and Dungalpitiya.

iv. ASP Negombo District IV overlooking 2 police stations, namely Pamunugama and Divulpitiya.

The Mt. Lavinia Division is divided into 5 ASP Districts.

i. ASP Mt. Lavinia District I overlooking 2 police stations, namely Angulana and Mt. Lavinia.

ii. ASP Mt. Lavinia District II overlooking 2 police stations, namely Kohuwala and Dehiwala.

iii. ASP Crime & Operation III overlooking 2 police stations, namely Kahathuduwa and Maththagoda.

iv. ASP Moratuwa District IV overlooking 3 police stations, namely Moratumulla, Moratuwa and Egodauyana.

v. ASP Traffic overlooking 1 police station, namely Piliyandala.

The Gampaha division is divided into 6 ASP Districts.

i. ASP Gampaha District I (SP DE Silva Senapathi) overlooking 2 police stations, namely Ganemulla, Minuwangoda and Gampaha.

ii. ASP Gampaha District II (ASP Samaranayake) overlooking 3 police stations, namely Yakkala, Malwatuhiripitiya and Weeragula.

iii. ASP Gampaha district III (ASP Thusitha Kumara) overlooking 3 police Stations, namely Pugoda and Dompe.

iv. ASP Gampaha District IV (ASP B.R.D.D.B.A.S. Banayake) overlooking 2 police stations, namely Weliweriya and Kirindiwela.

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v. ASP Gampaha District (ASP Rajapaksha). vi. ASP Attanagalla District (SP De Silva) overlooking 4 police stations, namely Pallewela, Mihirigama, Veyangoda and Nittambuwa.

The DIG (Western Province South Range) has two Divisions. They are Nugegoda Division (SP Ranasinghe) and Mount Lavinia Division (SSP Pussalla).

The Nugegoda Division is divided into 7 ASP Districts.

i. ASP Nugegoda District I (SP Sigera) overlooking 2 police stations, namely Maharagama and Mirihana.

ii. ASP Nugegoda District II (SP De. S. Jayasinghe) overlooking 2 police stations, namely Gothatuwa and Wellampitiya.

iii. ASP Nugegoda District III (ASP Piyasekara) overlooking 2 police stations, namely Talangama and Welikada.

iv. ASP Nugegoda District IV (ASP Weerasinghe) overlooking 4 police stations, namely Kottawa, Homagama, Meegoda and Boralesgamuwa.

v. ASP Nugegod District V (ASP Perera) overlooking 2 police stations, namely Mulleriyawa and Athurugiriya.

vi. ASP Homagama South District (ASP Karunarathne) overlooking 3 police stations, namely Hanwella, Padukka and Nawagamuwa.

vii. Traffic

The Mt. Lavinia Division is divided into 5 ASP Districts.

i. ASP Mt. Lavinia District I (ASP Jayasekara) overlooking 2 police stations, namely Angulana and Mt. Lavinia.

ii. ASP Mt. Lavinia District II (ASP Wedage) overlooking 2 police stations, namely Kohuwala and Dehiwala.

iii. ASP Crime & Operation III (ASP De Silva) overlooking 2 police stations, namely Kahathuduwa and Maththagoda.

iv. ASP Moratuwa District IV (ASP Krishantha) overlooking 3 police stations, namely Moratumulla, Moratuwa and Egodauyana.

v. ASP Traffic (ASP Kandewaththa) overlooking 1 police station, namely Piliyandala.

The DIG Trincomalee Range has two Divisions. They are Trincomalee Division (SSP Kadupitya) and Kantale Division (SP Silva).

The Trincomalee Division is divided into 4 ASP Districts:

i. ASP Trincomalee (ASP Buddika Munatunga) overlooking 2 police stations, namely Trinco Harbour and Trincomalee.

ii. ASP Trincomalee II (ASP Wejekon) overlooking 3 police stations, namely Nilaweli. Chainabay and Uppuweli.

iii. ASP Pulmudai (ASP Hettiarachchi) overlooking 3 police stations, namely Sripura, Kuchchaweli and Pulmudai.

iv. ASP Muthur (ASP Weerasingha) overlooking 3 police stations, namely Sampoor, Kinniya and Muthur.

The Kantale Division is divided into 3 ASP Districts.

i. ASP Kantale I (ASP Ranaweera) overlooking 3 police stations, namely Tambalagamuwa, Agbopura and Kantale.

ii. ASP Kanatale II (ASP Wettasinghe) overlooking 3 police stations, namely Wan Ela, Suriyapura and Serunuwara.

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iii. ASP Kantale III (ASP Perera) overlooking 2 police stations, namely Gomarankadawala and Morawewa.

The DIG Ampara and Batticoloa Range has two Divisions. They are

- Amapara Division is divided into 5 districts.

  i. ASP Ampara I (SP Sooriyaarachchi) overlooking 3 police stations, namely Eginiyagala, Damana and Ampara.

  ii. ASP Ampara II (ASP Sooriya Bandara) overlooking 4 police stations, namely Central Camp, Mangalagama, Bakki Ella and Uhana.

  iii. ASP Kalmunai (SP Herath) overlooking 4 police stations, namely Samanthurai, Chawalakade, Akkaraipattu and Klmunai.

  iv. ASP Pothuwil (ASP Welisarage) overlooking 3 police stations, namely Trirukkowil, Panama and Pothuwil.

  v. ASP Mahaoya (ASP Thilakaratne) overlooking 3 police stations, namely Dehiaththakandiya, Padiyatalawa and Mahaoya.

- Batticaloa Divison is divided into 4 districts.

  i. ASP Batticoloa I (ASP Kumaragiwa) overlooking 3 police stations, namely Kaththankudi, Vavunathivu and Batticaloa.

  ii. ASP Eravur (ASP Saman Kumara) overlooking 3 police stations, namely Aiththamalai, Karadiyanaru and Eravur.

  iii. ASP Valachchanai (ASP Jayasundara) overlooking 3 police stations, namely Wakarai, Kalkudah and Valachchanai.

  iv. ASP Kalawanchkudy (ASP Farook) overlooking 3 police stations, namely Vellavai, Kokkadicholai and Kalawanchikudy.

There are four SDIG ranges in the functional division, namely:

- SDIG Administration and Election "Province" under which there are four DIG ranges:
  - DIG Police Headquarters
  - DIG Legal, Discipline and Conduct
  - DIG, Ombudsman,
  - Director, Research and Development
- SDIG Support Services "Province":
  - DIG Logistics range
  - DIG Transport and Communication range
  - DIG IT range
  - DIG Welfare range
- SDIG Crimes, Organized Crimes, Narcotics and Commandant STF "Province":

  Under this Functional Province, there are three DIG ranges
  - DIG Crimes range
  - DIG Narcotics range
  - DIG, STF range
- SDIG Criminal Investigation Department and FCID "Province":

  Under this Functional Province, there are three DIG ranges
  - DIG, CID
  - DIG, FCID

Accordingly, it is apparent that the structure of the Police is such that there are 13 SDIG "Provinces" created. However, the cadre provides for only 12 SDIGs. Out of the twelve SDIGs, one SDIG was the Director of the SIS which was under the Ministry of Defence. Therefore, invariably three SDIGs had to overlook 2

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administrative provinces each. As at 21.04.2019 there were three SDIGs who were overlooking two administrative provinces each due to the shortage of SDIGs in the cadre according to the structure that was created as at that date. Namely, SDIG Southern & Sabaragamuwa Province, SDIG North Central & North Western Province and SDIG Central & Uva Province.

Apart from the fixed structure of Province, Range and District, there are a few functional DIG Ranges which came directly under the IGP, namely,

- DIG Human Resource Management, Recruitment, Training & International Relations
- DIG Special Investigation Unit
- DIG Terrorists Investigation Range
- DIG Special Branch
- DIG President's Security Range
- DIG Prime Minister's Security Range
- Special Protection Range
- Staff DIG to IGP

Moreover, three DIG ranges which ought to have been under SDIG Western Province are to be considered as Functional DIG ranges, namely,

- DIG Traffic Range
- DIG Field Force Headquarters Range
- DIG Environmental Protection and Disaster Management Range

The accountability of identified officers based on their response to the early warning received on 4th and 20th of April 2019 is set out below.

1. IGP Pujith Jayasundera

The oral evidence of Director SIS Nilantha Jayawardena corroborated by documentary evidence is that he had sent a number of reports about Zaharan to the IGP whilst those were at times were sent to the Secretary Defense and to the Law and Order Minister as well.

The evidence placed before the COI shows that Zaharan absconds after the Aliyar junction incident on 10th March, 2017.

However, the SIS Director had sent periodical reports to IGP, and the Secretary Defence informing the whereabouts of Zahran, Rilwan & Army Mohideen. In his reports he also continuously reported of Zaharan's extremist preaching. A pattern is seen from these documents in that the IGP had referred almost all these reports either to the TID or rarely to the Police Special Branch *'to investigate and report* 'on a date indicated in the minutes made on such documentation. TID had reported to the IGP that Zaharan was not found in the places which were mentioned.

In fact at a meeting presided over by the IGP on 13th June 2017, Director SIS had made a presentation on Islam extremism [Exhibit C369].

When the Acting Director Nalaka de Silva of the TID by letter dated 30.03.2017 sought permission from the IGP to look into the conduct of NTJ, the IGP allowed it. On 24.05.2017 Acting Director Nalaka de Silva informed the IGP that a file pertaining to this matter had been sent to AG for advice [Exhibit X26].

On 16.03.2018 DIG Nalaka de Silva informed the IGP that steps have been taken to report facts to facebook about Zaharan's face book account and to seize the account to ensure that peace and harmony was maintained in the country [Exhibit X34].

Director TID further informed the IGP on 16.04.2018 that Zahran was missing and not found at Kakunugolla Kurunagala [Exhibit X34].

It is significant to note that in view of the receipt of several reports submitted by the SIS, Army and the Police Special Branch, it was well within the knowledge of the IGP that ;

- Zaharan was an absconder,
- his whereabouts were known and reported by the SIS and the Army,
- he was an extremist preacher of the Muslim religion,
- he continuously uploaded his sermons via videos in the social media
- some such sermons advocated the killing of non-Muslims.

As demonstrated above, the agencies under his supervision and leadership had taken certain steps to curb Islamic extremism. He also had taken DIG Nalaka Silva to then President to brief him on 'Islamic extremism'. Despite the several proactive action in favour of the conduct of former IGP, his habit of passing intelligence reports most of the times to other agencies with a minute *'to report back'* was observed by the COI.

The burning issue is although he seemingly had taken certain action which includes the action by TID and the Police Special Branch, in view of the 'magnitude of the issue' to which he was privy, whether the slow pace at which his leadership had acted was sufficient in view of the rationale laid down in *Samy and Others v. Attorney General* [(2007) 2 Sri.L.R. 216](Bindunuwewa case).

IGP Jayasundara received a report on 09.04.2019 from the CNI's office on the foreign intelligence [Exhibit C4A]. On the same day he received a detailed

report from the Director SIS together with the intelligence disseminated by a foreign intelligence counterpart [Exhibit C4C].

IGP Jayasundara had sent C4 (A) along with C4(c) to the following 4 officers with a note stating *"FNA"* on 09.04.2019 itself,

1. SDIG Western Province – Nandana Munasinghe
2. SDIG Crimes, Organized Crimes, Police Narcotics Range and Commander STF – M. Latheef
3. SDIG Special Protection Range – Priyalal Dasnayake
4. Director – Counter Terrorism Investigation Division – Waruna Jayasundara.

As explained by IGP Jayasundra in his testimony the reason for him to minute FNA was because he received the letter from the CNI and the SIS at the same time, and in C4(c) the SIS had mentioned the information received to be unconfirmed. Therefore, he sent it to the aforementioned senior officers.

According to the evidence placed before the COI CI Priyadarshana who alleged to have held a powerful place in IGP's staff, had made the majority of minutes in the intelligence reports sent by intelligence agencies. The IGP had merely placed his signature therein. It is arguable considering the busy schedule of work of the IGP, whether it was humanly possible for him to have personally read or be briefed on the contents of each of these intelligence reports. However, it is noteworthy that all these minutes have gone under the signature of the IGP to other agencies under him. This invariably imposes liability on him in acquiring the knowledge of contents of information or the intelligence in the said reports .

The course of action taken by the former IGP on C4(A) and C4(C) has deviated from the normal routine as he decides to send it to 4 senior officers to *for necessary action.* This shows that he had promptly responded relating to the said documents. The issue is whether it was adequate.

SDIG Nandana Munasinghe too had along with C4 taken steps to circulate it to the relevant senior officers in the Western Province. Majority of such officers had circulated the information to the police stations under their supervision although some police stations had failed to take adequate action. DIG Wickremasinghe in charge of Dehiwela - Mt. Lavinia Divisions had successfully managed the area although suicide bomber Jemeel's bomb had exploded at Tropical Inn. This shows that the minute *for necessary action* by the IGP had been result oriented on some occasions.

As demonstrated above, the IGP was aware of the contents of the intelligence reports received at Police Headquarters. He was therefore aware of the degree and the magnitude of the Islamic extremists' problem. He was aware of the preaching by Zahran to eliminate the non-Muslims. The damaging of the religious statues by certain members of the Muslim community was investigated by the CID which investigating agency that was directly under his supervision. The same investigating team had recovered explosives at Wanathawilluwa less than a month from the religious statue issue. IGP Jayasundera knew that Zaharan's name was linked to the Wanathawilluwa explosives discovery.

One of the civilians who had led the CID team to Wanathawilluwa though a Muslim, was subjected to an assassination attempt. In the past there had been several communal disturbances between the Sinhalese and the Muslims. Although suspected at that time to have been committed by the LTTE, had it

been so, it might have been the indication of the uprise of another ethnic conflict. In view of such a back ground was it the duty of the leader in charge of the law and order of the country to have gone few steps further than *"FNA"*.

Should not the former IGP have;

- Summoned the Director SIS to his office or at least have phoned him up and made further inquiries?
- Inquired from the TID, CID & the Kattankuddy police of the progress made in arresting Zaharan?
- In view of the several information provided by the SIS, should he not have enquired as to why the TID and CID failed to arrest Zaharan, Rilwan and Army Mohideen from the places where they supposed to be hiding?
- summoned all the SDIGs from the 9 provinces and held a meeting in abundance of caution and preparation as the foreign source did not specifically said the explosions would be in the Western Province ?
- followed up with the 4 senior officers to whom he had copied C4(A)?
- ascertained from the relevant senior officers in the provinces or to whom he minted FNA of the possibility of having a contingency plan?
- As his reporting superior contacted Secretary Defence Hemasiri Fernando and discussed about the information?
- Informed his Minister of the information whilst adding it might not happen as the SIS had not confirmed the

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Although these two officers would not have identified the SIS reports as 'intelligence' reports, none can deny that every report issued by the SIS carried information that was adequate for the duo to understand the developments with regard to Islamic extremism enabling them to take appropriate action.

If the IGP had exercised due diligence in the discharge of his duties, the moment he read C4C, its contents certainly would have been reminded him of the several 'information' the SIS had provided in several different reports on the same facts and of the same persons who were becoming a threat to the national security. Did the former IGP pay a lackadaisical attitude to C4A & C4C as he had not paid any heed to the intelligence reports or he had no regard for the National Security?

Director SIS Nilantha Jayawardena had called around 5.00 pm on 20/4/2019 and informed that an attack was going to happen. IGP Jayasundara had questioned Director SIS what the SIS had gathered in response. The response was that it's a further development received from the foreign source.

When the question was posed by the COI why he did not keep His Eminences informed of the information, he responded that he was not sure about the information, because Director SIS had mentioned that it is from a foreign source and that the SIS had not found any information, therefore he had not mentioned it . IGP Jayasundera had told Director SIS to inform the SDIG's and DIG's since he knows about the information saying that he too would pass the message to the senior officers. However since the Director SIS thought that the IGP did not take the intelligence seriously he spoke with secretary Defence who then called the IGP and informed about Director SIS information.

It should be noted that IGP had mentioned to then SIS Director to inform the intelligence to the SDIG's.

IGP's knowledge of the explosion at Palamunai should have rung a bell in his mind of the gravity of the situation as much as it did in Director SIS.

Based on an overall assessment of the evidence before us, it is our view that the IGP failed to act required in view of the vast amount of intelligence reports that provided him the background, development and the conduct of Zaharan brings in an element of criminal liability. He has failed to take effective and decisive action as the IGP of the country.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against Mr. Pujith Jayasundera under any suitable provision in the Penal Code.

2. SDIG Crimes, Organized Crimes, Police Narcotics Range and Commander STF M. R. Latheef

He was the Commandant of the STF which had an area of responsibility in the Eastern Province from its inception. The STF had an advanced intelligence unit strengthened with foreign training from the early 1980s. The main area of operation of the STF has been the Eastern Province. However, under his command the STF intelligence units was not able to get any intelligence on the Islamic extremism prevalent in the area. There were intelligence reports on other areas but not on Islamic extremism. His response was that they did not have knowledge of any such activity.

He was sent C4A to C4C although he took up the position that he had not received C4C. When the COI queried the steps taken with regard to it the response was that he got in touch with the Indian Embassy and provided security to it. However, it is surprising as to why he did not instruct his intelligence units to work on the intelligence received.

3. SDIG Nandana Munasinghe, SDIG Western Province

He received C 4 A, C 4 B and C 4 C from the IGP's office on 09.04.2019. However he had in fact the read the information on 10.04.2019. He had not taken steps to formally file the said documents in an official manner.

However, he had prepared C 4. In that, he had given four main instructions to the DIGs. Out of the four instructions, two are in relation to intelligence measures and two are in relation to actionable security measures.

The two intelligence measures includes the following:

- To get the photographs of persons mentioned in C 4 A.
- Forwarding the said photographs to the ground intelligence officers.
- To be vigilant as to the said persons being seen near the targeted places
- To see as to whether they have taken aboard in guest houses or in houses on rent.
- He also emphasizes that collecting information should be done in a secretive manner.
- He has also directed the DIGs to get information of an attack in advance.

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In the backdrop of giving such detailed instructions in respect of intelligence to the DIGs including DIG Colombo, he had grossly neglected to send these instructions to Director, Western Province Intelligence Division, which was directly under his supervision and which was the only intelligence division established for the Colombo DIG range.

He has failed to convene a meeting with Western Province Intelligence Division to set up a plan to achieve his own instructions mentioned in C 4.

Moreover, he failed to convene a conference with his subordinate officers on C 4 A, C 4 B and C 4 C in order to formulate an actionable plan in respect of active security measures to achieve the instruction goals mentioned in C 4. He merely transmitted the information with an instruction sheet (C 4) passing on his duty to formulate a methodology to counter the impending attack and to take maximum steps to prevent such attack. He had not taken steps to converse with his only superior, the IGP, to discuss about the information, gain more knowledge on the background of the persons named therein and to devise an effective plan to prevent the occurrence of such an attack.

As the creator of C 4, the witness had not provided sufficient instructions therein to his subordinate officers nor has he explained the same by physically meeting his subordinate officers at a conference or meeting as mentioned above. Several police officers who testified before the COI pointed out that C 4 contained very restrictive orders which did not enable them to transmit the information to the clergy (Eg: evidence of CI Sarath Kumarasinghe).

C 4 contained a mixture of instructions which were required to be carried out by intelligence officers and Police officers of the regular force.

SDIG Munasinghe received the intelligence given on 20th April 2019 SDIG Ravi Senevirathne initially and later from SDIG Nilantha Jayawardhena on the same day. He had not taken any measures to convene a meeting with the DIG's to

give specific instructions to the active regular force. This had to be considered in the backdrop of his personal experience which he gained as a senior officer who had served in the TID and CID during the LTTE war and during the aftermath of the war. He was well aware of suicide bomb attacks and the nature of operations of such bombers.

He had failed to inform Prasanna Brahmanage, the Director of Western Province Intelligence Bureau about the on 20th April 2019. Being a division under his supervision, the witness failed to deploy its officers on intelligence operations on the night of 20th April 2019, especially within the Colombo Central division to ascertain the movements of the potential attackers listed in C 4 A or any other person.

The witness failed to inform the clergy within his area on 20th April 2019 or the 21st of April 2019 when the information of an attack on churches was confirmed by Director SIS Nilantha Jayawardhena. His explanation was that he feared the repercussions in the event no explosion materialized rather than the harm to human life that could be caused if the explosion took place, as it did.

The witness' omissions took place amidst a backdrop of knowledge, since he had served in the area of Batticaloa and had received information pertaining to ISIS sympathizers in Sri Lanka in the form of a letter marked C 597 from the Director of SIS on a previous occasion. He was also privy to the disputes between followers of Thowheed and other Muslim sects in the area (as mentioned in another letter sent by Director of SIS marked C 596 dated 04.03.2015).

The witness admitted in evidence that he did not consider the information in C 4 A, C 4 B and C 4 C to be serious, nor did he imagine that the time period of

"shortly" stated therein referred to the fact that the attack would happen in April 2019.

SDIG Munasinghe possessed knowledge of terrorist activities and Islamic terrorism, failed to fully appreciate the information of an impending attack provided to him. He failed in his duties as SDIG in gathering his subordinate officers and laying a comprehensive plan to capture the perpetrators in the event they entered his police area and to secure vulnerable points.

When the names of the potential attackers were provided to the witness by 09.04.2019, he did not take measures to gain knowledge of their identity and to take measures to prevent their entry to vulnerable places within his area. In light of explosions at Hotels Kingsbury and Shangri-La, the mastermind himself, Zaharan, was present at Hotel Shangri-La on the 19th of April 2019. He had arrived from R. A. De Mel Mawatha as revealed by investigations. If the witness had taken measures to make known the identity of Zaharan to the Police officers of the regular force as a wanted individual or had placed his intelligence officers in tactful positions, there was a possibility for Zaharan to have been apprehended and the attacks foiled.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against SDIG Nandana Munasinghe under any suitable provision in the Penal Code or section 82 of the Police Ordinance.

4. DIG Deshabandhu Thennakoon-DIG (Colombo-North)

He was the permanent DIG Colombo North when the Easter attack took place. On 11.04.2019 the he has received C4 (a) (b) (c) by hand as well as via through the VPN. After receipt of the document marked C4 he made a covering letter

marked as C-365 and has annexed to C4 and had sent it to SSP Chandana Athukorla and ASP Sisila Kumara on 12.04.2019.

However, he had not taken any extra step except dispatching the said C 365. He had failed to call for reports pertaining to C4 from the junior officers before the attack. He had merely conducted himself as a messenger and had failed to discharge his duties.

Accordingly the COI recommends that a disciplinary inquiry should be conducted against him.

5. SP Sanjeewa Bandara, (Division SP Colombo North)

He was the SP in charge of Colombo North Division. The witness has not taken any meaningful steps concerning instructions received by C-4.

Even though DIG Shelton Pathinayake has informed the witness on 20-04-2019 of a possible suicide attack on 21-04-2019 (C-13D) the witness had not taken any measures to avert the attack. According to the evidence of the subordinate officers the witness had not pass down the information to them.

Though he had not taken any steps concerning the information received by C 4 and C13D he had instigated his subordinated officers to make false entries and forged official documents to depict that he had taken necessary precautionary measures to avert the attacks that took place on 21st April 2019 after the event.

The evidence revealed that he aided and abetted in forging the following documents;

C-80

C-81

C-82

C-94

C-106/ C-106A

C-113/ C-113A

C-118A, 118B, 118C

C-117

In view of the evidence revealed before the COI there is ample evidence to prefer criminal charges against SP Sanjeewa Bandara.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against SP Sanjeewa Bandara under any suitable provision in the Penal Code or Section 82 of the Police Ordinance.

In order to prove any charges the Prosecution may call

- IP- Rakinawasam Upendra
- DIG- Shelton Pathinayake

In proving any charges of conspiracy to forge documents, the prosecution may utilize following witnesses;

- IP- Rakinawasam Upendra
- Udage kamkanamge Gamini
- CI- Hendry Mahinda Karunaratne
- IP- Sirisena Abeysinghe
- CI- Sudath Priyantha Ekanayake

6. SSP Chandana Athukorala

He received the information by a dispatch rider on 12.04.2019 that is C4 (a), (b) (c) and C 365.

Upon receipt of the letters Chandara Athukorla has dispatched the letters along with C 375 that is the covering letter prepared by him to all the 4 ASP's who were under his supervision.

He had passed the information to the divisional intelligence OIC

On 18.04.2019 OIC intelligence has responded with a letter marked as C 378 stating that no information was found.

He had then put a note on C 378 and sent it back to OIC to find more information.

Diyagama Vidanage Arachhilage Kasun Sanjeewa Bandara (officer worked at the SSP office intelligence unit) has testified that C 378 was created after the 21.04.2019.

SSP Chandana Athukorala has failed to discharge his duties as a senior officer of the police.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above.The COI recommends that the Attorney General consider instituting criminal proceedings against SSP Chandana Athukorala under any suitable provision in the Penal Code or Section 82 of the Police Ordinance.

7. SP B. E. I. Prasanna, Director, Western Province Intelligence Division

When considering the evidence provided by the witness together with other evidence placed before the COI, the following omissions were observed in the conduct of the witness prior to the occurrence of Easter Sunday attacks.

He received C 9, C 4, C 4 A, C 4 B and C 4 C from DIG Pathinayake's office through DIG Ajith Rohana on 11th April 2019. Accordingly, he was aware of the contents of the said documents by the 11th of April 2019. He had held an instruction class on the following day and instructed his subordinates to be vigilant and to report to him. However, it is apparent from the body of evidence led before the COI that the witness had failed to take any specific measures to address the issue therein.

For instance, he had failed to instruct and station his intelligence officers to collect information about the information effectively. No intelligence officers had been stationed near churches or other critical points within Colombo, the most concentration of which lies within Fort.

It is apparent to note that C 4 mainly deals with collecting information. Moreover, C 9 also had more of instructions with regard to collecting information. Therefore, this witness had a prevalent role to play in implementing the instructions in C 4 and C 9.

He ought to have communicated/coordinated with his immediate superior SDIG Nandana Munasinghe to formulate a plan in respect of collecting information. His evidence does not reveal any attempt made to get the photographs of the people mentioned in C 4 A.

Even though the witness asserts that he did not receive any subsequent information about the impending attack on the 20th or 21st of April 2019, the

evidence of DIG Lalith Pathinayake before the COI [*pgs. 132 & 133 of proceedings dated 02.11.*2019] was that he had informed about the information received from SIS Director on the morning of 21.04.2019 to the witness when he called (call record marked C 12 E).

The witness had knowledge that his division was the only intelligence division operating within Colombo Central Division. Therefore, all Police Stations within the said division relied on officers of the Western Provincial Intelligence Division for collection of intelligence. The witness failed to discharge the duty and function of his division by failing to set up an effective plan to cover the crucial points within Colombo, including the tourist hotels of Colombo Central division.

The witness had not formulated any plan to collect information during the night. No intelligence officers were placed within the city during the night, mainly within the Fort Police Station which had 30 places which required special security.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against SP B. E. I. Prasanna, Director, Western Province Intelligence Division under any suitable provision in the Penal Code or section 82 of the Police Ordinance.

8. ASP Sisila Kumara

He is an experienced officer with regard to religious extremism and about Al Qaida as he had taken part in a training course in Turkey. He received the information, C 365 and C 375 along with C4 (a) , (b), (c), C 365 and C 375.However, he had not dispatched the information to the OICs.

On 19.04.2019 Sisila Kumara has visited the Katana Police station where he had put a note (C 379) on the OVB kept at the Katana police station to take steps according to the instructions given by SDIG and the DIG.

He received a call from SSP Chandana Athukorla on 20.04.2019 to strengthen the security. He had not properly administered the police stations under the purview of him upon the information he received.

The COI therefore recommends that a disciplinary inquiry should be conducted against him.

9. CI R. M. Sarath Kumarasinghe, Acting OIC, Fort

When considering the evidence provided by the witness together with other evidence placed before the COI, the following omissions may be observed in the conduct of the witness prior to the occurrence of Easter Sunday attacks.

According to the evidence of SP Wickramasinghe, who was acting in place of SSP Jayasinghe, on the 20th night, he had informed Acting OIC Kumarasinghe the following:

- information was received from DIG to strengthen security around churches against an imminent attack
- to increase road barriers,
- to conduct raids
- in effect, to alert necessary teams

CI Kumarasinghe had failed to do any of the above and on the contrary he had retired from work at the normal time and had been at the barrack merely handing over the duties to Duty Officer IP Lalantha.

The witness who was Acting on behalf of CI Sagara Liyanage as he was on leave from 19.04.2019 to 21.04.2019, on 20.04.2019 had failed to provide specific instructions to his officers at the instruction class held in the morning and had merely read over the contents of SK 01 to all officers at the instruction class.

He had failed to personally check on the security of the churches within his area.

He had failed to ensure that road barriers were properly functioning within his division, although a confirming message was received from SP Wickramasinghe in relation to an impending attack.

He had merely transmitted the information to Duty Officer IP Lalantha rather than to take immediate action and to deploy officers at the road barriers and alert the officers therein with the information received.

He failed to co-ordinate with officers of Western Province Intelligence Division attached at Police Station, Fort in order to receive information as per the instructions received by him on.

According to the evidence of all officers, Fort Police station covers 30 places which require special security. Therefore, measures taken by CI Kumarasinghe are grossly inadequate.

He had failed to communicate/coordinate with permanent OIC Sagara Liyanage.

He had failed to communicate/coordinate with ASP D. K. Priyantha, being his immediate superior officer.

It is pertinent to note that the bombers of Hotel Shangri-La arrived at the hotel at 1956 hrs while the bomber of Hotel Kingsbury arrived at the hotel at 1929 hrs on 20.04.2019. A suicide bomber of Shangri-La and the suicide bomber of Kingsbury had set out from their respective hotels at 2021 hrs and 2106 hrs

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respectively and travelled along the Galle road before returning to the hotels during the night at 0147 hrs (on 21.04.2019) and 2347hrs respectively.

Had the witness taken more proactive steps by ensuring that all road barriers were properly functioning with alert officers, there was a possibility of the suicide bombers being detected. There appears to be a clear case of neglect of duty in the case of the subject witness. As Acting OIC of Fort on 20.04.2019, he failed to diligently execute his duties by ensuring that all officers under him were effectively utilized to combat a threat of attack which was to operate in the near future.

Even though CI Sagara Liyanage OIC Fort (permanent) stated that he conducted a class, CI Kumarasinghe's evidence was that he did not recall of such a special class conducted by CI Liyanage. According to CI Kumarasinghe, he first saw the information contained in SK 01 (which is the received copy of the set of documents comprising of C 26 and the relevant annexures) on the 20th of April 2019 when he was about to conduct the routine Saturday class. SK 01 was pasted in the "upades panthi potha". Therefore, it appears that he had no prior knowledge of the information which came in on 11.04.2019 until 20.04.2019.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against CI R. M. Sarath Kumarasinghe under any suitable provision in the Penal Code or section 82 of the Police Ordinance.

10. CI M. Sagara Wilegoda Liyanage, OIC, Fort

When considering the evidence provided by the witness together with other evidence placed before the COI, the following omissions may be observed in the conduct of the witness prior to the occurrence of Easter Sunday attacks.

Having participated at the meeting held by SSP Upali Jayasinghe on 13th April 2019 and provided with a photograph of Zaharan at the said meeting, the witness had failed to transmit the information received at the conference to his officers at the Police Station. Although he asserted that he held an instruction class on the evening of 13.04.2019 to all inspector ranked officers within the station, there were no notes to prove the same and officers who testified before the COI had no knowledge of such an instruction class (eg: IP Lalantha Priyadharshana).

Even though the witness stated that he posted the photograph of Zaharan on the Notice board of the Police Station, there is doubt as to whether it was actually done since the photograph was declared to be missing at the time of testifying. Furthermore, there was no corroboration of the witness' assertion by any other officer.

The evidence of Interdicted CI Suriyakumara was that the witness had added a note to SK 01 (which is the received copy of the set of documents comprising of C 26 and the relevant annexures) subsequent to the Easter Sunday attacks. However, the evidence of CI Kumarasinghe was that he had seen the note on 20.04.2019 prior to the routine instruction class, but was illegible. It is pertinent to note that even at the time CI Kumarasinghe testified, he was serving within the Police Station of Fort while the witness was the OIC of the said station. Therefore, a doubt remains as to whether the witness did add a

note to SK 01 with instructions to conduct surveillance, deploy patrol teams etc. near temples, churches and Public places.

Moreover, the witness had obtained leave for the period from 19th April 2019 onwards, with full knowledge of an impending attack. While the witness appreciated the fact that his Police area contained most of the crucial places of Sri Lanka, he did not give priority to the said information and failed to act upon it.

He did not take measures according to the instructions given at the conference on the 13th of April 2019 as well as which was enumerated in SK 01.

It is apparent that there was no special security plan that had taken place by the 20th of April 2019 when the last moment information was received.

He had not taken steps to communicate/coordinate with the officers of Western Provincial Intelligence Division placed within Police station, Fort.

He had not formulated any plan to receive information by communicating and coordinating with officers of Western Provincial Intelligence Division stationed at Police Station, Fort. The failure to do so deprived them of receiving the following information:

Zaharan (whose name appears on C 4 A) had visited Hotel Shangri-La on 19th April 2019 to conduct a reconnaissance of the Hotel.

Zaharan accompanied Ilham Ahamed when they came to Hotel Shangri-La on 20.04.2019 evening.

In view of the above and owing to the witness' position of importance as OIC, Fort, it is apparent that he failed to take any preventive measure whatsoever despite prior warning. Having knowledge of the fact that in the event an explosion occurred within his area, it would result in harm to life, the witness failed to give priority to the said information and to implement a preventive operation.

Based on the evidence, the COI is of the view that there is criminal liability on his part for the acts or omissions explained above. The COI recommends that the Attorney General consider instituting criminal proceedings against CI M. Sagara Wilegoda Liyanage under any suitable provision in the Penal Code or section 82 of the Police Ordinance.

11. Chaminda Nawaratne-OIC (Katana)

He received C4 and C 375 via fax on 13.04.2019. Katana police station has received C 4 (a), (b) , (c) via fax.

He has taken following steps upon the receipt of the information

1. Informed PC 67265 Maduranga to enter the information in the order book on 14.04.2019 order book was marked as C 385
2. Informed PS 21705 Nishantha who is intelligence officer to check on the information.
3. He has held a meeting (Upades panthi) on the 20.04.2019 and discussed about this information.
4. Has made a note on the order book informing PC 76732 Asanga, PC 73138 Lalith, PC 49132 Ashoka to check on the churches and follow the instructions given by SDIG Nandana Munasinghe. Marked as C 390.

However, he has not complied with the note dated 19.04.2019 put by ASP Sisila Kumara on the OVB maintained at Katana police station. He had only spoken about the C4 with his officers in the police station only on the 20.04.2019 one day prior to the attack.

Having received C4 (a) (b) (c) he has failed to discharge his duties

In the circumstances a disciplinary inquiry should be conducted against him.

The COI therefore recommends that a disciplinary inquiry should be conducted against him.

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Chapter 21

Attorney General's Department

In this chapter the COI considers the delay on the part of the Attorney General's department in handling file no. EER/08/2017.

The Attorney General is the Chief Legal Advisor to the Government. In that capacity he advises the Government, Government Departments, Statutory Boards and Public Corporations in respect of all legal matters. He conducts prosecutions in criminal cases and appears on behalf of the Government, Government Departments, Statutory Boards and Public Corporations in any Court or Tribunal.

The Attorney-General plays an important role with regard to criminal matters. He tenders advise, either upon advice being sought or on his own initiative to State Departments, public officers, officers of the Police and other armed forces and officers in Statutory Boards and Public Corporations in respect of any criminal matter of importance or difficulty. Specific provisions have been included mainly in the Code of Criminal Procedure Act No. 75 of 1979 (as amended from time to time) as well as in the Judicature Act No. 2 of 1978 (as amended from time to time). All Indictments against persons accused of serious criminal offences are forwarded to the High Court in the name of the Attorney-General and Section 193 Code of Criminal Procedure Act No. 75 of 1979 mandates that the prosecution shall be conducted by the Attorney General or the Solicitor General or a State Counsel or by some pleader generally or specially authorized by the Attorney General in that behalf.

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The TID referred file bearing no. EER/08/2017 to the Attorney General by letter dated 7th June 2017.

Based on the material submitted to the Attorney General, advice was sought on whether the web sites of NTJ and social media account could be banned and whether persons engaged in these unlawful activities could be arrested and investigated.

This file was received by the Attorney General's department on 7th June 2017. The supervising officer of the subject area at the time was then Senior State Counsel (SSC) Azard Navavi. Then Senior Additional Solicitor General Dappula De Livera President's Counsel took over as the head of the Criminal Division from 12th June 2017. The criminal branch forwarded the file to SSC Azard Navavi on 12th June 2017 for nomination of counsel.

On 15th June 2017, SSC Navavi makes a minute to State Counsel (SC) Malik Azeez which reads "Spoken with you. Pl. attend." SC Azeez makes a minute that it was received on 16th June 2017. SSC Navavi testified that he can remember speaking to SC Azeez before allocating the file but was unable to recollect the contents of the conversation.

The matter to be addressed is whether there has been any omission on the part of the two officers in handling this file.

The file when received by SC Malik Azeez contained twenty five pages as follows:

(i) Pages 1 to 16 containing information and page 17 containing a certification by the OIC of the TID,

(ii) A report addressed to the OIC of the Prosecution Division by the OIC of the Unit Investigating Islamic fundamentalism and extremism from pages 18 to 22, and

(iii) A report bearing reference No. O/TID/OUT/5/3600/17 dated 7th June 2017 by the Acting Director TID addressed to the Attorney-General from pages 23 to 25.

There is no minute in the file of any attention given to it thereafter until the receipt of another set of documents along with a compact disc dated 14th June 2018. It contained sixty six pages. Still there was no minute in the file as to the steps taken on the request made by the TID. There are two versions as to the reason for the second set of documents to be received from the TID.

The evidence of CI Pathirana of the TID is that the second set of documents was submitted to the Attorney-General's department because Zaharan was continuing with offensive publications on social media platforms.

The explanation given by SC Malik Azeez is that after perusing the contents of the first set of documents received with the file, he found the material inadequate and therefore took steps to call for the relevant material. He explained that this is the reason why the second set of documents were received with a compact disc dated 14th June 2018.

In support of this position, SC Azeez refers to letter dated 31st May 2018 sent by the TID with more documents addressed to the attention of SC Azeez and submits that it is not possible to identify him as the officer handling the file unless he had informed the officers of the need to do so.

The COI rejects this position based on the evidence before it. Although SC Azeez said that he had instructed the TID to submit further material, in a letter to IGP dated 7th June 2018 the then DIG TID Nalaka Silva states that Mr. Azeez is studying the file EER/08/2017 and no instructions have been received as yet. This indicates that no such intimation was made by SC Azeez as contended by him. This is further corroborated by a contemporaneous minute made by the Officer-in-Charge of Investigation Unit 2 of the TID dated 3rd May 2018 in a note to the then Director, TID where he states that when he contacted the Attorney General's Department, one Mrs. Harshini informed that the file EER/08/2017 is being studied by SC Azeez. This is how the letter dated 31st May 2018 sent by the TID with more documents was addressed to the attention of SC Azeez.

The first minute in the file is dated 12th March 2019 more than one and a half years after it was received by the Attorney-General's department and reads:

> "On my instructions SI Ratnayake, P.C. 835..6 Nayanapriya & P.C. 77703 Rumesh present. They are currently handling the investigation.
>
> The original brief was available. Accordingly, it appeared that several documents including the first formal written complaint had not been sent to us.
>
> Self also discussed the complicity of the suspect so far, and the several allegations with regard to the suspect.

> Self instructed to submit the several material identified by me as relevant within 3 weeks."

The next minute is dated 2nd May 2019 after the Easter Sunday attacks.

The evidence before the COI shows that there has been an inordinate delay on the part of SC Azeez in handling this file.

Having considered the testimony of SC Azeez and evidence before the COI, it is recommended that the Public Service Commission consider taking disciplinary action against SC Azeez.

DSG Azad Navavi took the position that he did not receive file EER/08/2017 after he allocated it to SC Azeez. He had retrieved the file only after he heard about a file being referred by the TID to the Attorney General's department at a meeting held at the Presidential Secretariat after a few weeks of the Easter Sunday attacks.

The COI observes that as the Supervising Officer DSG Azad Navavi should have monitored the file which was not done.

Having considered the testimony of DSG Navavi and evidence before the COI, it is recommended that the Public Service Commission consider taking disciplinary action against DSG Navavi.

In fact, evidence was produced that a Committee of Officers was appointed by the Attorney-General to hold a preliminary investigation to find facts on the issue of delay in tendering advice on file EER/08/2017. This appointment was made on 2nd June 2020. The Committee by its report dated 17th July 2020 has recommended that DSG Azad Navavi and SC Azeez be dealt with disciplinary as

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provided for under the Establishments Code. The COI was informed that the matter has been referred to the Public Service Commission.

On this matter, it must be mentioned that Senior Deputy Solicitor General Vikum De Abrew sought to inform the COI of the response of the Public Service Commission on the preliminary investigation findings. However at that time, he was appearing as counsel on behalf of a State Counsel who was a witness before the COI. Mindful of the professional obligations on a counsel in respect of evidentiary matter to which he is privy to, the COI instructed Senior Deputy Solicitor General Vikum De Abrew to formally inform the COI through the proper procedure without trying to be counsel and witness at the same time. No further communication was received by the COI.

The evidence of Additional Solicitor General Sumathi Dharmawardena was that no file review meetings had been held in relation to EER files during the relevant period. This is a serious lapse on the part of overall supervision.

Accordingly the COI makes the following recommendations:

1. Establish a dedicated unit of prosecutors to handle terrorist related matters. Training must be provided to enhance their capabilities. The team should not be assigned other tasks other than prosecuting and assisting in the investigations of terrorist cases.
2. Implement a quarterly file review system in all sections of the department.
3. Implement a monthly meeting where the dedicated team and officers of the TID and other related agencies have a review meeting.

Chapter 22

Contributory Factors

The COI is mandated to identify persons, organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and disturbed social order and disrupted the social integrity and caused racial disturbances.

Part of this Mandate is addressed in Chapters 18 and 25 where organizations were discussed. This Chapter focuses on the activities of individuals.

1. Venerable Galagoda Aththe Gnanasara Thero

The thero is the Secretary of the BBS. It was established in 2012.

The thero was at the forefront of the movement to identify the threat from Wahhabism to the country. On this issue he has been proved correct as described earlier in the Report. But his speeches did not stop at targeting the Wahhabis ideology but went further targeting the Muslim community in general.

However some of his actions and utterances have contributed to Muslim youth taking to extremism and joining Zaharan. It was in evidence that Zaharan used the speeches and actions of the thero to rally support for his cause. In the final video made by Zaharan spelling out the reasons for the attack reference is made to the actions of Venerable Galogada Aththe Ganasara thero.

Reciprocal radicalization is the cycle of radicalization which promotes each other's radicalized ideologies. The actions of Venerable Galogada Aththe Ganasara thero resulted in reciprocal radicalization of Muslim youth.

The COI has heard some of the derogatory remarks made by Venerable Galogada Aththe Ganasara thero on 17th February 2013 at Maharagama[75] and at Aluthgama on the day after the poya day in June 2014.

The COI recommends that the Attorney General consider whether criminal proceedings can be instituted against Rev. Galagoda Aththe Gnansara thero in terms of International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 for the speeches made on 17th February 2013 at Maharagama[76] and at Aluthgama on the day after the poya day in June 2014.[77]

The actions of Rev. Galagoda Aththe Gnansara thero contributed in part to the radicalization of the Muslim youth.

The COI is also of the view that the actions of the BBS is a threat to religious harmony and that it should be proscribed.

2. Mr. Rishad Bathiudeen

The witness was the Minister of the Government when the Easter attack took place. A suspect named Ihsan Meinudeen was arrested in connection with the attack. He was arrested by the Sri Lanka Army. Shortly thereafter Mr. Bathiudeen called Army Commander General Mahesh Senanayake thrice on his mobile.

According to Mr. Bathiudeen the father of the suspect was a Secretary to a Ministry and known to him. He had called and informed Mr. Bathiudeen that his son has been taken away by unknown persons and whether he can assist in tracing him.

[75] Exhibit C 636 CD tape containing speech
[76] Exhibit C 636 CD tape containing speech
[77] Exhibit C 698 CD tape containing speech

Mr. Bathiudeen's version is that he called the Army Commander to find out whether the son is in custody.

General Senanayake testified that:

ප : දැන් බදුර්දීන් අමාත්‍යවරයා ඔබට කතා කරලා අහමඩ කියන පුද්ගලයෙක් අත්අඩංගුවට ගත්ත කිව්වනේ. ඉතිං මොකද්ද ඔබෙන් බලාපොරොත්තු වුණේ, ලංකාවේ හමුදාපතිවරයා වන ඔබට මේ ඇමතිවරයා කතා කරලා මොකද්ද බලාපොරොත්තු වුණේ ඔහු කියා සිටියද ඔහුට මොකද්ද අවශ්‍ය වන්නේ කියලා?

පි : මට කිව්වේ මං ඉස්සෙල්ලා පෙරදි කිව්වා වගේ එයාගේ සාමාන්‍ය අධිකාරිවරෙයක් හෝ ලේකම්වරයෙක් පුතෙක් එයා ගැන පොඩ්ඩක් බලන්න මොකද්ද කරන්න පුළුවන් කියලා බලන්න කියන එක තමයි කිව්වේ.

[Proceedings of 16.11.2020, page 8]

The words used appear to be an attempt at obtaining a benefit on behalf of suspect Ihsan Meinudeen.

The COI recommends that the Attorney General consider instituting criminal Attorney General consider instituting criminal proceedings against Mr. Rishad Bathiudeen under any suitable provision in the Penal Code.

There is also another matter which came to the attention of the COI. It is in relation to the Industrial Development Board (IDB) which came within the purview of the Ministry of Mr. Bathiudeen. IDB was involved in collection of waste scrap metals from government institutions and distribution of such in between industrialists of small, medium and large scale.

The criteria to be followed in such an instance, was laid down in the Guidelines. Director Sales was the authorized officer to issue scrap metals to

the industrialists. However, there were no specified rules and regulations on the amount to be distributed per person.

Hence, the IDB was under the authority to issue any amount of scrap metal to an industrialist when a quotation was presented. Subsequently, the Chairman (Mr. Gamini Jinasena) during the time period in issue had arbitrarily issued large quantities of scrap metal (especially copper) to the Colosus (Pvt) Ltd owned by Inshaf.

On some occasions, the request of the Colossus (Pvt) Ltd was approved directly by the Chairman on his own without getting the concurrence from the Director General or Director Sales. No tender procedure was laid down in the Guidelines to be followed in issuance of scrap metal to the industrialists.

Evidence was lead before the COI to establish that there have been irregularities in the issuance of scrap metal. Colosus (Pvt) Ltd. was issued with unusually high amount of scrap metal compared to the other industrial entities.

Inshaf is related to Mr. Bathiudeen. However Mr. Bathiudeen testified that he did not get involved in any way in issuing scrap metal to Colossus (Pvt) Ltd.

Documentary evidence showed that remarkably higher quantities had been issued to Colossus (Pvt) Ltd. which was a medium range industry. Some of it has been authorized by the Chairman. However it had been given a discount when buying scrap metal which is higher than the other institutions. Such issuance has caused a loss of Rs. 4.6 Mn to the State.

Inshaf and Ilham provided major finances to Zaharan. Hence these transactions fall within the Mandate of the COI. The COI recommends that in terms of the Mandate of the COI, this matter should be forwarded to the Commission to

Investigate Allegations of Bribery or Corruption. The documents marked C752 to 765 and C770 to C799 and all documents marked DPP should be forwarded along with copies of the evidence of Priyanka Lakshman Rathnamalala, Dickwelle Patabandige Palitha Pushpashantha and Pannala Lekamalage Sarath Udayasiri- Director (Marketing), IDB and Mahinda Jinasena, former Chairman, IDB.

3. Riyaj Bathiudeen

He is the brother of Minister Bathiudeen. He was a member of the Ministers staff. The CID had found several calls between Inshaf and Mr. Riyaj Bathiudeen who claimed that these calls were made when Inshaf tried to get in touch with the Minister over a dispute that had arisen with regard to the detention of scrap exports by Colossus (Pvt) Ltd. Minister Bathiudeen testified that in 2017 Inshaf had called him which means that Inshaf had the number of the Minister.

The connection with the sale of scrap metal and its irregularities and the fact that Inshaf was one of the biggest funders of Zaharan brings these matters within the Mandate of the COI.

The COI recommends that both these matters be referred to the Police to conduct necessary investigations and inquiries in addition to the earlier matter the COIrecommended to be referred to the Bribery Commission above.

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3. Mr. Razik Rafaideen aka Abdul Razik

Born on 7th July 1983, he studied from Year one to Ordinary level at Zahira College, Maradana and thereafter at Royal College. Later he obtained a B.A. from the University of Kelaniya and followed a course in AAT.

He acted as the Secretary of the SLTJ, which was started on 24th March 2005, from 2010. From 2001 to 2005 he was a member of the ACTJ until he joined the SLTJ in 2005.

Around 2009, he distributed handbills in Sinhala stating that there is no other god other than Allah and challenged any person who thought otherwise for a public debate.

On 6th May 2014, he equated what is referred to by Buddhists as the triple gem to three gem stones and questioned whether anyone can get relief by praying to such gemstones. He went on to state that Lord Buddha has consumed human flesh. Criminal proceedings have been instituted against him in relation to this statement in M.C. Colombo B 7467/1/14 but no charges have yet been filed. The file has been referred to the Attorney General's department some time ago.

On 12th November 2017 a meeting was held at Hisbullah Hall in Kattankuddy under the auspices of Kattankuddy SLTJ leader Mohomed Jaseen where Abdul Razik, gave a lecture. He spoke in favour of the Batticaloa Campus being constructed in Punani. He criticized Mr. Rauf Hakeem for speaking in English forgetting that he is a Muslim. He also critiqued the proposals to give 20% female representation at Local and Provincial Council Elections which according to him was detrimental to Muslim parties and the Muslim community. Further he said that the predominant place given to Buddhism by

the Constitution must be stopped and this country must be made a multi-religious country. He went on to state that the Constitution has given the first place to Sinhala and the second place to Tamil.

In 2017 during a speech at the Jaysinghe Hall Dehiwela Abdul Razik stated that IS is Islam.

He was instrumental in converting Sara to Islam. In fact his organization has given publicity that it will assist a person who wishes to convert to Islam. Sarah had found the link to his organization on the internet and got in touch with him. He gave instructions for her to come to Batticaloa and that she will be picked up from there by two members of the SLTJ. They brought her to Colombo via Puttalam. Razik appears to have chosen Hasthun to marry Sara. Evidence was given to the COI that the mahr was provided by Razik.

The COI received evidence of a demonstration in Colombo led by Abdul Razik advocating the implementation of the Sharia law.

He has published a translation of the holy Qur'an although admittedly he is not a Moulavi.

4. Mr. Mohammadu Farouk Mohammadu Shibly

He was born in Kattankuddy and studied up to Ordinary Level Examination there. Thereafter he went to Zahira College, Matale and completed his Advanced Level Examination. He is an engineer by profession.

In 2012 he entered politics and got elected from the Batticaloa District to the Eastern Provincial Council and functioned until 2017. According to him he got to know Zaharan and Rilwan after he entered politics in 2012 and probably around 2015.

It was in evidence that He had a close association with Zaharan and his group at least up to March 2017.

The evidence before the COI shows that on 4th March 2016, Zaharan held a program at Meeraode junction, Valachcheni on the harm caused to Muslims by the Shia sect. He criticized several actions of the Shia sect. Initially the Valachcheni Police did not grant permission for the use of loudspeakers. But after Mr. Shibly Farouk intervened it was granted.

In fact previously around 2014 or 2015 he helped Zaharan by getting him permission from the Police to conduct meetings. The CID did question him on calls from Zaharan's telephone number in 2016 which was reflected on his call records.

The COI received evidence of photographs[78] depicting Mr. Farouk with Army Mohideen a member of the NTJ who was involved in the incident on 10th March 2017 at Aiyar junction.

There is also evidence that Zaharan intervened at the request of Mr. Hisbullah and Mr. Shibly Farouk to resolve a dispute between the two. It was done at the NTJ mosque. Five representatives from the two sides took part in the process.

There is also evidence of Mr. Farouk visiting Rilwan in the hospital after he was attacked by the supporters of Mr. Hisbullah in the aftermath of the General Elections 2015. He sought to testify that the visit to the hospital to see Rilwan happened when he went to see a pregnant lady. The evidence before the COI is that he went directly to see Rilwan with Mr. Rauf Hakeem.

The evidence reveals that Zaharan and the NTJ received the political patronage of Mr. Farouk at least until March 2017.

[78] Exhibit C-949

5. Dr. Muhamad Zufyan Muhamad Zafras

Dr. Zafras was born in Kalmunai and was educated at Almanar Central College, Maruthamunai and entered the University of Jaffna and obtained the MBBS degree in March 2012. Thereafter he joined the Government service and worked in different parts of the country.

In 2015 he passed the MD Surgery Part I examination and was later enrolled in the University of Colombo for post-graduate studies in surgery. He decided to specialize in Orthopedic Surgery and obtained the MD in Orthopedics in February 2019 and topped the batch and was awarded the Gold Medal.

Dr. Zafras began working at the National Hospital Colombo on 1st April 2017 and was attached to the Plastic Unit. On 27th August 2018 around 1.30 a.m. he received a call from Mohamed Aliyar Marzook Rila, said to be a close friend as they studied together at Almanar Central College, Maruthamunai, who informed that a known person got injured from a gas cylinder blast and whether there is any first aid that can be given for this kind of injury. Rila was in Saudi Arabia at that time and informed Dr. Zafras that the injured person is in Sri Lanka. The evidence before the COI is that this patient was Mohamed Rilwan, brother of Mohomed Zaharan and was injured while testing with some explosives.

Dr. Zafras requested for some photographs of the patient which he got via Whatsapp from a local number registered in the name of I.M. Jeffrey of 4/4, Makikkampitiya, Kaduruwela. He observed that the injuries were burnt injuries and that the patient was looking ill and that the face and hands were black. Having realized that the patient's life was in danger, he advised the patient to be taken to a hospital and gave examples of national hospitals at Batticaloa,

Kandy or Colombo which was equipped to provide sophisticated treatment to the injuries sustained. During this period Dr. Zafras received at least three calls from this local number and another call from Rila, the duration of which was for about eight minutes, and had conversations but denied that he was told where the patient suffered injuries.

On the 27th of August 2018 Dr. Zafras, whilst working at the Colombo National Hospital, calls a local number which was given by a message sent at 4.55 a.m. on the same day from the first local number used to contact him in the early morning. This call was made at 9.31 a.m. on the same day. Rilwan was admitted to the National Hospital on the same day around 13.42 a.m. to the emergency but under the name M.I. Shahid.

During the course of his treatment Dr. Zafras saw him on two occasions. Once, in Ward 79 Neuro Trauma ETU, and then in Ward 79 although he was not working in these sections at that time. The evidence before the COI shows that Dr. Zafras was in touch with a person or persons accompanying Rilwan at the time he was admitted to the National Hospital.

In December 2018, Rila visited Dr. Zafras at his home in Colombo with four others including Zaharan and Rilwan. He introduced Zaharan as a Moulavi and Rilwan as his brother. The visit was said to be to thank him for the assistance rendered in the treatment and this was said to be the first and last time that Dr. Zafras met with Zaharan and Rilwan. However there is evidence that Rila aka Abu Libaand Zaharan spoke of having to give Rs. 2 ½ lakhs to the doctor who arranged for the treatment. According to the evidence Zaharan had stated that the money was given.

According to Dr. Zafras he came to know the identity of the people he had helped after about one week from the attacks on April 21st 2019. Thereafter he deleted the local number which he had saved as Mohomed Rila's friend but decided against seeking legal advice or going to the Police with the information he was privy to.

There are several areas that have given concern to the COI on the evidence of Dr. Zafras. The Bedhead ticket of the patient has space to include the history as given by the patient. In this case, it is stated that the injuries were caused by a gas cylinder blast but Dr. Chandana who examined the patient at the Emergency Treatment Unit had placed a question mark in front of the history given as he was not totally convinced that the injuries were consistent with the given history and made a further endorsement that the Police be informed.

Dr. Zafras admitted having examined the bedhead ticket could not have easily overlooked these remarks. Dr. Ajith Tennakoon, Chief Judicial Medical Officer of Colombo giving expert evidence testified that the injuries are not consistent with a gas cylinder blast and that they are more consistent with injuries suffered as a result of a blast while experimenting with explosives. The Whatsapp images sent to him of the injured person was not found in his phone. Dr. Zafras testified that he had uninstalled Whatsapp when he was in Saudi Arabia from 6th to 16th March 2019 as he wanted to free up space. However it transpires from the analysis report prepared by the CID that his phone contained back up services such as i-cloud and drop-box and that having uninstalled the Whatsapp application, he immediately reinstalled it. There is also the question as to why he failed to inform the authorities of this incident in view of it implicating Mohamed Aliyar Marzook Rila who was later arrested in Saudi Arabia and brought down to Sri Lanka. There is also evidence that Dr.

Zafras was a member of the SLJI in his school days, against which the COI has made certain findings.

The COI recommends that the Attorney General considers instituting criminal proceedings against Dr. Zafras under section 5 of the PTA for failure to give information.

6. Mr. M.L.A.M. Hisbullah

He was one time Minister of the Government and the Governor of the Eastern Province.

He played a prominent role in the Arabization of Kattankuddy. This is one factor which contributed to exclusivism getting embedded in Kattankuddy. It was his testimony that the Wahhabis manner of practicing Islam is the proper way.

He agreed to the terms proposed by Zaharan and the NTJ for candidates contesting the General Elections of 2015. Later zaharan objected to his appointment on the national list of the United Peoples Front Alliance.

Adam Lebbe Mohammadu Mumthaz is a close associate of Mr. Hisbullah and was involved in the establishment of the Hira Foundation. Mr. Mumthaz is a thowheed follower and known to be a supporter of the IS ideology. He is one of the persons seen with Mr. Hisbullah walking out from a hotel in Pasikuda on 21st April 2019 night soon after the Easter Sunday attacks on 21st April 2019.

There is evidence of Mr. Hisbullah sharing the stage with Dr. Zakir Naik, extremist preacher and owner of Peace TV who is banned in India and Bangladesh.

It was also in evidence that Haroon Moulavi from Kattankuddy was a close associate of Mr. Hisbullah.[79] Haroon Moulavi organized a protest in Kattankuddy where IS flags were carried.[80]

Mr. Hisbullah has at times spoken of violent extremist actions. In 2016 he made a speech in Parliament, which was admitted by him, where he states that in the event that there is no room for them to practice Islam they would wage war, and that this was their religion.[81]

On 8th November 2017 he made another speech in Parliament that if the North and East of the country is made to unite, the Muslim Youth would take up arms and there would be rivers of blood which would flow through the country.

He also made a speech at the Jumma Mosque in Kattankuddy that the Muslims are a minority only in this country but a majority globally and nobody should think that they could subjugate them.

The COI finds that the actions of Mr. Hisbullah facilitated the spread of extremism within Kattankuddy.

[79] Exhibit C-943
[80] Exhibit C-944
[81] Exhibit C-1353

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Chapter 23

Counter Terrorism Law

It is a fundamental duty of every State to ensure the protection of its citizens. *Salus populi suprema est lex* the safety of the people is the supreme law. The duty attains greater significance in modern times due to the increase of global terrorism. Modern terrorism has many facets including religion, ethnicity, colour and other forms. It uses many platforms including cyberspace. The challenges faced by States in countering the threat of terrorism are thus increased.

Terrorism can be categorized into three categories:

1. International Terrorism
2. Domestic Terrorism
3. Transnational Terrorism

The purpose of the Easter attack on 21st April 2019 was to conduct an act of terrorism based on the ideology and acts of the IS. Foreign training has been given to some persons involved in this attack. According to the recorded statement of Zaharan who caused these attacks, one of the primary reasons for the act of terror was to establish an Islamic State in Sri Lanka. Therefore the Easter attack by Zaharan and his group can be treated as both International and Domestic terrorism.

Sri Lanka should act in co-operation with foreign countries to take effective counter measures against all acts of international terrorism. It must adopt legal procedures to counter terrorism after considering steps taken by foreign countries to prevent such terrorist acts.

The way the world looked at terrorism changed dramatically after the September 9, 2011 attack. Madeleine Albright, US Secretary of State speaking on 17 April 2000 stated:

> "The United States will not support any and all measures taken in the name of fighting drugs and all measures taken in the name of fighting drugs and terrorism or restoring stability. One of the most dangerous temptations for a government facing violent threats is to respond in heavy-handed ways that violate the rights of innocent citizens. Terrorism is a criminal act and should be treated accordingly – and that means applying the law fairly and consistently. We have found, through experience round the world, that the best way to defeat terrorist threats is to increase law enforcement capabilities while at the same time promoting democracy and human rights".

Soon after the 9/11 attack, US Congress adopted a Resolution on 18 Sept 2001 which sanctioned:

> "use all necessary and appropriate force against those nations, organizations or persons he (US President) determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons"

Tony Blair, former Prime Minister of Britain said that it is a dangerous misjudgment to put civil liberties first.[82]

[82] 27 May 2007, Sunday Times

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The International Commission of Jurists issued a "Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism" in 2004 in Berlin, Germany. It was declared that States must give full effect to eleven principles in the suppression of terrorism.

The first principle declared that all States have an obligation to respect and to ensure the fundamental rights and freedoms of persons within their jurisdiction and that States must take measures to protect such persons, from acts of terrorism. It went on to state that counter-terrorism measures must always be taken with strict regard to the principles of legality, necessity, proportionality and non-discrimination.

The counter terrorism law in force in Sri Lanka was enacted as far back as 1979 and that too intended to be on a temporary basis. There is an urgent need to enact a new counter-terrorism law to empower the law enforcement authorities to effectively counter terrorism.

It is important to educate ourselves on reasons for terrorism prior to preparation of laws to counter it. The main reason for spread of terrorism worldwide is the disharmony between the people in the society with respect to nationalities and religions. Another reason is a section of public acting without any respect to each other.

Counter-terrorism laws must be effective. Strict Laws should be introduced. The primary concern should be to protect the innocent civilians from the scourge of terror while giving due recognition to the human rights of suspected terrorists. A greater degree of importance given to human rights of terrorists might hamper counter terrorism endeavours.

The COI examined the draft Counter Terrorism Act of 2018 (CTA) (Appendix VII). The COI is of the view that there is no proper balance between empowering the law enforcement authorities and the human rights of the suspect terrorist. Law enforcement authorities will be prevented from effectively carrying on their investigations if counter terrorism laws are drafted with more emphasis to safeguard the human rights of the terrorist suspects. Therefore CTA provisions which prevent proper and effective investigation by law enforcement authorities should be removed.

According to the Penal Code for homicide, death penalty can be imposed. But in the CTA the maximum punishment which can be given for homicide is life imprisonment. The CTA will not act as a deterrent to terrorist activities since it has not provided the death penalty.

The CTA has given power to a DIG to issue a detention order. However considering the inefficiency in the Police department revealed to the COI, it is advisable to give such power to the Secretary Defence.

In the CTA, the period of detention of a terrorist suspect has been reduced. However the period recommended is not sufficient to conduct an effective and complete investigation. Accordingly it is recommended that at any given time detention orders may be issued to detain a terrorist suspect for 6 months and thereafter to extend further up to 2 years with extensions every 6 months. The power to do so should remain with the Secretary Defence. This must be combined with a rehabilitation process which the terrorist suspect will have to undergo during this period. The power to detain a terrorist suspect for a long period will help to rehabilitate the terrorist suspect and will limit his participation in any terrorist activities to some extent.

Terrorist suspects held in detention should be produced before a Judicial Medical Officer once every month and a report obtained. The report must be tendered to the Magistrate's Court.

The recommendations of the COI to the draft CTA (Appendix VII) are set out below:

1. Section 4(a) - The death penalty should be imposed and implemented without the possibility of a Presidential pardon or commuting of the sentence. Under the Penal Code, the death penalty can be imposed for murder. Therefore the death penalty should be similarly imposed by law for the killings committed by terrorist activities.

2. Section 13 – The punishment for failure to provide information to authorities must be increased to not exceeding 10 years and fine not exceeding Rs. One million. Prompt provision of information on terrorist activities to the security forces will facilitate the suppression of such activities. Therefore, punishing those who are aware of this information and do not inform the security forces will help in the suppression of terrorism. The security forces were unable to prevent the attack due to the fact that the security forces not being properly informed regarding the terrorist activities before the Easter attack. Therefore, those who knowingly conceal information should be severely punished.

3. Section 14 – The punishment for disobeying lawful orders should be increased to 5 years and fine not exceeding Rs. 500,000/=. As the 2 year imprisonment given for violating the legal provisions prescribed under this Act is not sufficient, it should be increased to 5 years.

4. Section 17 – It should provide for the arrest by a police officer as well as customs or immigration officer. The process of arresting persons who commit offences under this Act will be made more efficient by giving the power to arrest suspects for these offences at airports and ports to the Customs and Immigration officers.

5. Section 19(2) – It should provide for the arrest of a suspect with the assistance of a customs or immigration officer. With the assistance of the Ports and Immigration and Emigration Officers, the arrest process will be streamlined.

6. Section 20 – It should provide for customs or immigration officer. Giving the powers under Section 20 to the Customs and Immigration Officers will make the inspection of vehicles and property and the inspection of documents more efficient.

7. Section 25(ii)(D) – The name and rank of the arresting officer to suspects should be removed. Entering the name and the official name of an officer who arrests a suspect in a document listed in Schedule 1 to the Act would pose a threat to the said officer's safety.

8. Section 25(v)(F) – Section to be removed completely.

9. Section 27(v) – To be changed as follows – for the purpose of the section private interim means proceedings either in open court of Magistrate Chamber in the absence of any Police Officer.

10. Section 30(1) – maximum period of 12 months and further extension with an application made to the Attorney General from the High Court Judge for another 6 months.

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11. Section 53 to be removed.

12. Section 55(3) to be removed.

13. Section 68(2)(b) to be removed.

14. Section 54(3)(a) to be removed.

15. Section 88(G) – This sub-section should be removed. This provision permits the pardoning of a terrorist suspect with the consent of an aggrieved party. This may expose the aggrieved party to undue influence from the suspect and hinder the counter of terrorism.

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Chapter 24

Dysfunctional Government

The response of the Government to the threat of Islamic extremism was dysfunctional. Its actions reflected a lack of priority to national security concerns. The focus appears to have been more on national harmony and reconciliation. The important position that Muslim political parties played in establishing and maintaining the Government appears to have played a pivotal role in shaping the response of the Government to the IS threat. This was evident from the evidence of several witnesses who testified before the COI.

Sri Lanka has faced many challenges to its national security from both internal and external sources over last several centuries. The reasons include both internal and external factors.

For several centuries foreign invaders invaded the country in search of its riches as well as due to its geographical location. Between 1971 and 2010, the national security was threatened due to internal factors. History should be a lesson to any Government that national security must always be a priority if not the top most priority.

Regrettably it does not seem to have been the case between 2015 and 2019. By 2016, the Government including President Sirisena and Prime Minister Wickremasinghe were aware that the Caliphate declared by the IS on 29th June 2014, included Sri Lanka. The term Caliphate (*khilāfah* in Arabic) refers to an Islamic State headed by a Caliph (*khalīfah* in Arabic) who is a person considered a politico-religious successor to Prophet Muhammad and a leader of the entire Muslim world (ummah). They were also aware that around 32 Sri Lankan Muslims had travelled to Syria between 2014 and 2015 to join the IS.

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Yet a coordinated effort to counter the threat was not forthcoming. In fact former Army Commander General Krishantha De Silva testified that Mr. Wickremasinghe did not accept intelligence presentations at the NSC meetings about the rising Islam extremism in the country and in particular in the East. Prime Minister Wickremasinghe had in fact gone to the extent of stating "No no that cannot happen".

The looming IS upon the nation should have been more acutely understood and addressed when it was brought to the attention of the Minister for Law and Order and Southern Development Sagala Ratnayake by none other than a sitting Judge of the Court of Appeal Justice M.M.A. Gaffoor. He testified that around 2016 he was informed by a mother that her son was supporting the IS ideology and requested for assistance. He contacted Mr. Sagala Ratnayake through some friends and met him at Temple Trees and brought it to his attention. Mr. Ratnayake had informed Justice Gaffoor that they are aware of the spread of Islam extremism and that the PM is vigilant about the development. After the Easter attack, Justice Gaffor became aware that the son of the mother who contacted him had also been arrested.

The evidence before the COI is that President Sirisena took a similar approach towards Islamic extremism. Mr. Asanga Abeygoonasekera, former Director, Institute of National Security Studies testified that both he and Director SIS Nilantha Jayawardena were in the VIP room at the MOD to meet the Secretary Defence in March 2017 or thereabout when he raised the topic of Islam extremism with the Director SIS. The he was told by Director SIS of a remark made by President Sirisena. He went on to testify that thereafter they did not do much work on extremism.

A: Apart from the monthly threat forecast I sent on March we were asked to I mean the Director/SIS told me that I asked him about the extremist threat with him and the exact used words he mentioned was I have written that on my statement Your Honour. Should I mention that? He mentioned that එහා මෙහා යන නයි රෙද්ද ඇතුළේ දගන්න එපා that's what's he mentioned. Then I asked what does it mean? Then he said President Sirisena said that and he says that you know that his idea. That's what he said. So we didn't do much work on extremism Your Honour after that. Last MTF I kept on writing on my MTF about extremism Your Honour. Last one was on 2019 January I mentioned after the detonators were found in Wanathawilluwa I mentioned in my MTF saying that the significant National Security to Sri Lanka.

[Proceedings of 30.09.2020, pages 25-26].

Mr. Abeygoonasekera was not examined by either of the legal counsel appearing on behalf of President Sirisena or Director SIS on this part of the evidence during their cross-examination.

Several witnesses testified that the Government was reluctant to take proactive steps on Islamic extremism since many Muslim political parties were part of the Government. In fact the Government consisted of around 17 elected Muslim Members of Parliament. Some steps were taken such as an attempt to regulate foreign religious preachers and establishment of a separate unit within the TID to examine Islamic extremism. But events proved that it was not sufficient.

In fact when a senior Cabinet Minister of the Government Mr. Wijedasa Rajapakse, Minister of Justice made a speech in Parliament on the 18th of November 2016 highlighting facts about Sri Lankans with IS connections, he was roundly critiqued by several Muslim Ministers and members of the Government.

The discovery of a large cache of arms at Wanathawilluwa should have been a clear warning to the Government. It was put on notice that the arrested and absconding suspects were linked to Zaharan. A sizeable amount of bomb-making material such as potassium nitrate, nitric acid, detonators etc. were recovered from there.

Some books showing the path to "jihad" and inspiring words of the world famous Yemeni-American radical preacher, Anwar Al Awlaki was also found. A letter containing a diagram of a circuit and details of the making of bombs was found in the wallet of one of the suspects arrested. On 19th February 2019, the NSC was apprised of these findings.

The evidence of former Director CID Shani Abeysekera was that he and SDIG (CID) Ravi Seneviratne met President Sirisena in March 2019 and informed him of a serious threat to national security. Yet the CID employed only a seven-member team to investigate and arrest Zaharan and his group when the total strength of the CID was over seven hundred. President Sirisena did not give any specific directions. In fact he did not even have a NSC meeting after 9th February 2019 until the Easter Sunday attacks.

The coalition government was under severe pressure due to a critical breakdown in relations between President Sirisena and Prime Minister Wickremasinghe. It was the testimony of President Sirisena that he had lost trust in the coalition government after the central bank bond issue. However Mr. Wickremasinghe testified that while there were disagreements there was no serious breakdown in the working relationship between President Sirisena and himself.

President Sirisena went further and testified that one of the reasons for the sacking of Mr. Wickremasinghe as Prime Minister in October 2018 was the breakdown in trust. The events of October 2018 had a serious impact on national security due to the attitude of President Sirisena after Mr. Wickremasinghe was re-appointed as Prime Minister in December 2018.

Thereafter President Sirisena did not invite Prime Minister Wickremasinghe for any of the NSC meetings. So much so that after the Easter Sunday attacks when Prime Minister Wickremasinghe wanted to call the members of the NSC in the absence of President Sirisena who was away in Singapore, President Sirisena called the Secretary to the President and Secretary Defence and informed them not to attend the meeting.

The Government was also heavily focused on national harmony and reconciliation. Many resources were directed towards this effort. Indeed there must be national harmony and reconciliation given the 30 year old LTTE threat faced by the nation. Yet several witnesses testified that national security was not given priority within the Government due to its focus on national harmony and reconciliation. The COI has no reason to doubt the testimony of these witnesses.

IGP Pujith Jayasundera testified that due to the breakdown in trust between President Sirisena and him, it was evident that SIS operatives were involved in surveillance of his movements. Yet when the SIS was investigating Zaharan and his group, most of the information and intelligence was from open sources.

The lack of a coordinated approach on the part of the Government to the IS threat was visible in so far as the actions of the intelligence agencies were

concerned. It was exacerbated by the acute competition between the intelligence agencies to obtain credit for providing intelligence.

A case in point is the DMI having vital information on Jameel and the other members of the JMI from 2015. Yet admittedly all this intelligence was not shared with other intelligence agencies. The SIS was no better. The Army Commander Mahesh Senanayake complained to Hemasiri Fernando, Secretary Defence that the SIS was not sharing intelligence and information with the DMI.

Senior officers failed to shed personal differences aside and work as a team. The Director SIS Nilantha Jayawardena testified that DIG Nalaka De Silva was instigating Namal Kumara to work against him on social media and other forums with a view to becoming the head of the SIS. The COI heard several audio recordings which corroborated this allegation. The explanation of DIG Nalaka De Silva was that he was testing Namal Kumara as an informant. The COI is of the view that this was not the case.

The dysfunctional Government was a bountiful opportunity for Zaharan and his group to strike.

Chapter 25

Extremist Religious Groups

The mandate of the COI requires it to identify persons, organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and which disturbed social order and disrupted the social integrity and caused racial disturbances.

The COI has earlier identified SLJI and SLJISM as extremist Muslim organizations that should be banned. Additionally the COI has identified wahhabism as an ideology that should be banned. Wahhabis organisations operate in Sri Lanka as Thowheed organisations. This aspect has been dealt with in more detail in chapter 5. In this chapter the COI seeks to identify other persons and organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and which disturbed social order and disrupted the social integrity and caused racial disturbances.

The Easter Sunday attacks occurred in the context of Ethno Religious disharmony that has been prevailing in the country in the aftermath of ending the war in May 2009. The reconciliation measures introduced since then were basically focusing on rebuilding trust and confidence of the Tamil community.

All governments in power took progressive steps towards achieving sustainable peace by introducing administrative systems, establishing institutional mechanisms, and developing necessary legislative and legal framework. However, the recent developments in the country on Islamic religious extremism that was spreading across borders from Syria and Iraq to the global

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village in which Sri Lanka is also a partner has not been sufficiently recognized by the law enforcement agencies and Defence authorities of the country.

Hence the proactive measures and actions required to prevent, deter and eliminate religious extremism amongst the communities living in Sri Lanka were in a state of serious disarray and collapse. The commitment of the political and religious leaderships of the country could not supersede the commitment and determination of a handful of IS loyal Islamic fundamentalist extremist group who gradually became active in the country since 24th June 2014 when Abu Bakr Al Baghdadi declared the Caliphate and introduced him as the Cardiff (Calipha).

In this context this part of the report will discuss the sudden eruption of Ethno – religious disharmony between handful of Sinhala-Buddhist and Muslim-Islam communities living in this country for nearly 1000 years within a peaceful coexistence as described in Chapter 3. There are reasons and grievances for both the communities to agitate, suspect each other, criticize and even act violently on some occasions. There is evidence before the COI that rationalized the reasons for division among these two communities from a historical perspective to contemporary times and it was evident that this disharmony was the culmination of the politicization of the religious differences which emerged in the early 1980s when religion based political parties came in to existence. (E.g. Sri Lanka Muslim Congress).

However before exploring this aspect in greater detail, it must be stated that extremism within the Muslim community first appeared in the early 1990s with the advent of wahhabism. This resulted in the fighting among Muslim groups over sectarian differences which targeted Sufi Muslim community of Sri Lanka. This area has been dealt with in detail in chapters 4 and 6 including the intra

religious disharmony among Sufi Muslims and NTJ led by Zaharan. Thus violent extremism erupted within the Muslim community first before violent extremism was directed at the Muslim community by extremist Buddhist groups.

Previously Muslim community in the country voted for a party representing majority either United National Party or Sri Lanka Freedom party, their colours and symbols. The electoral process of Sri Lanka has examples of where Muslim politicians were voted into power by a majority Sinhala electorate.

The changing landscape of the electoral system that was introduced with the 1978 Constitution brought about a change with the advent of religious based political parties such as the formation of the Sri Lanka Muslim Congress in 1981, Sihala Urumaya in 2000 and Jathika Hela Urumaya in 2005.

The electorate was asked to think on religious lines in casting their vote. The COI heard testimony of a meeting held in Kalmunai on 24th June 1983 where the leader of the Sri Lanka Muslim Congress addressed a gathering of Muslims and emphasized that the Muslim community has not gained anything by being with the major political parties and that they should contest as a community and obtain a share of the seats so as to bargain.

The consequences of the proportional representative system on the Sri Lankan social fabric are captured by Warnapala and Yehiya[83] as follows:

> "The two major parties in Sri Lanka are putting forward an increased number of minority candidates in order to prevent the minorities from voting for ethnically-/religiously-based minority parties. The

[83] Yajni Warnapala and Zuffni 'Bobby'Yehiya, Minority Electoral Politics, A Sri Lankan Case Study [Online] Available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.860.5210&rep=rep1&type=pdf> Accessed on 24th January 2021.

proportional representative (PR) system that was introduced in 1989 was initially considered as a disadvantage to the minorities. However, the PR system has benefited the minorities and has not brought any expected benefits to the major parties. More minority candidates are getting elected, but the votes of the minorities are getting split, and therefore there is no net gain to the two major parties. In fact, there is evidence to say that parties that are taking a more nationalistic approach are doing better than the parties that are projecting a more inclusive image. Appealing to the minorities has alienated the majority, Sinhalese, so the major parties are moving towards more radical extremist nationalistic platforms."

This new development very badly affected the harmony among the two communities as the politically united Muslims became divided. Once divided it is obvious that many differences in the social, cultural, religious as well as economic spheres are of concerns to both the communities. The notion of Islam phobia came in to the Sri Lankan society as an outcome of this new political culture. More fuel was added with the wahhabis ideology that began to grow from the early 1980s along with many other recent developments such as Halal certification, Sharia law, and proliferation of Thowheed mosques, madrasas and Arabic Schools which led to worsening the situation and a dangerous form of Islam phobia was inculcated in the minds of opponents of the Muslim community.

This situation was presented to the COI by many witnesses who testified before it. One witness who had lived in Kattankudy for long years prior to the eruption of LTTE war testified on the Oluvil Declaration and its core of a Muslim "Nijabima" concept (separate state for Muslims) in the Eastern

province. He went on to state with great pain of mind, that this new political culture was instrumental in beginning division among historically united Muslims and other communities in particular the Sinhalese.

Zaharan, a Wahhabist, who was the mastermind of the terrorist attacks on Easter Sunday was espousing his brand of Islamic extremism since 2009 in Kattankudy in the Eastern province through religious sermons. He operated in many parts of the country at the latter stage preaching his religious extremism. He not only created animosity among some Sinhala/Buddhist community but also within his own community of Sufi Muslims. When Zaharan's agenda and the mission became well known to the opponents he himself made, they foresaw the danger of Islam religious extremism and informed the authorities as revealed by some members of Sufi Muslim community who appeared before the COI. No tangible action was taken.

On the other side Buddhist extremist organizations such as the BBS became vocal critics of Islam extremism and wahhabism in particular. However they did not stop at that and went beyond by targeting the Muslim community in general with hate speech. The speeches of Rev. Galagoda Aththe Gnansara thero contained comments aimed at the Muslim community in general and fuelled anti-Muslim fervor. They contained without any doubt hate speech. In particular the COI examined the speeches Rev. Galagoda Aththe Gnansara thero on 17th February 2013 at Maharagama[84] and speech made at Aluthgama on the day after the poya day in June 2014.[85] The COI is of the view that part of

[84] Exhibit C 636 CD tape containing speech
[85] Exhibit C 698 CD tape containing speech

the speeches can form the basis for a prosecution in terms of International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 and recommends that the Attorney General consider filing charges against Rev. Galagoda Aththe Gnansara thero.

Such hate speech no doubt ignited extremist groups within the Buddhist community to target Muslims and their business establishments.

This provided a fertile ground for people like Zaharan to prosper. He used it as a base to attract recruits and succeeded. As a result many extremist elements in the society received an inducement to come forward with their own extremist ideologies forming organizations in the name of religion and race.

On the other side Razik Rafaideen aka Abdul Razik of CTJ contributed in a massive scale for bringing disharmony among Sinhala/Buddhist and Muslim/Islam community in Sri Lanka. He made hate speeches critizing the "Buddha" the religious leader of the predominantly Sinhala Buddhist community of the country. His public protest calling for Shari Law, and many extremist speeches went viral on social media and the extremist elements in the Sinhala/Buddhist community took advantage to retaliate.

The COI has examined religious based extremist organizations which could be of hindrance to ethno religious harmony, coexistence and unity among all communities of Sri Lanka. There has been an increase of such organizations after ending the war in 2009.The founders of those organizations pretend to be nationalistic, humanistic, and patriotic but in reality by observing what they talk, do and what they publicized in social media they are not so. Their motives, behaviors and actions are building animosity among communities.

Many are not registered, no office bearers, but few individuals are operating on social media and not visible on the ground. However, whenever necessary they are ready to mobilize groups for mob attacks, public rallies, protests and destroying unity among people. Their strength in terms of funding and membership is not that significant but if left to operate as they have been doing over time unattended by law enforcement and intelligence Agencies they can be of a threat to national security as extremism in any form in any community can end up in terrorism in the long run.

In the aftermath of the war there has been a movement of a few Buddhist monks, lay ideologues and social media activists propagating anti-Muslim sentiments in the country. There have been several violent incidents relating to anti-Muslim sentiments.

In June 2014, organized violence was carried out in Aluthgama, Dharga Town, Welipenna and Beruwala in the District of Kalutara. In 2017 there was violence against Muslims in Gintota in the Galle district and in 2018, there were two incidents - one in Ampara on the 27th of February and in a more serious manner, series of attacks against Muslims in Digana and Theldeniya in the Kandy district in March 2018.

In addition to the agitations of some Buddhist monks and a handful of lay people in Sinhala speaking areas of the country, there were some speculations in the country with regard to growing anti-Muslim tension in Tamil speaking areas of the North and East as well. During the war time with the massacre of Muslims in the Eastern province in 1990, some Muslim youths were chosen as paramilitary arm assisting military, and provided with weapons to safeguard

Muslim community from LTTE attacks. This has been the reason for propagating anti-Muslim sentiments by some anti-social lay organizations such as Siva Sena Movement also known as EELAM Siva Sena Movement operating in the North and East.

However, the evidence placed before the COI confirmed dismantling those para- military Muslim groups and the weapons were surrendered to the law enforcement agencies after ending the war in 2009, to a greater extent while leaving suspension about some weapons still being in the possession of Para-Military Muslim groups. This has been one of the grave concerns of Sinhala Buddhist anti-social movements too. In fact former DIG Eastern Province Edison Gunetileke testified the Hisbullah group refused to surrender arms.

Nevertheless, it was evident from Zaharan's orders to kill two policemen Vavunathivu in the District of Batticaloa to find weapons that the jihadist group did not have weapons. However in the aftermath of the attack, colossal amount of swords were recovered from the custody of some Muslim community including Mosques. This has led to aggravation of agitation against Muslims in the Country as "Jihad by Sword" is an Islamic religious belief entertained by Islamic extremists that is widely spoken and known to anti-social elements of Sinhala Buddhist. Thus the story of emerging Muslim militancy and the danger foresee is in the minds of all non- Muslim communities of the country. It is in evidence that Milhan and Rilwan requested Mohomed Shifas Saththar to find them some swords which was done and the swords were sent to Beruwela and Kurunegala areas. The Masjid Dul Cader Jumma Mosque was given 50 swords with the participation of Moulavi

Mohomed Ghouse Mohomed Fahim and Mohomed Arshad who was a MMC of the Colombo Municipal Council.

Muslim Sinhala riots had first erupted in the country as far back as 1915 when the country was under British rulers. "Hundred days in Ceylon Under Martial Law" a book written by Armand de Souza provides the historical perspective of Sinhala Muslim riot that surfaced in the country in June 1915 and lasted for many months with the enforcement of Martial Law.

The Muslims at that time were recognized as Ceylon Moors who were Arabian descendants and Coastal Moors who were the descendants of Malabar coastal Indians. The conflict between Coastal Moors and Sinhala Buddist community was on religious practice of 800 years old Buddist temple and a 30 year old Coastal Muslim Mosque (also known as "Hambayan") and the protest was from this group of Muslims against the Temple procession and the suspension of drum beat within 100 meters of the Mosque.

According to the writer, the Ceylon Moor community had peaceful coexistence with the Buddhists with no conflicting demands. This peaceful coexistence of Sinhala and Muslim community in Sri Lanka could by and large be attributed to traditional Muslim community and their culture, values and religious beliefs and practices that are well blended and aligned with Sri Lankan cultural Identity. Unfortunately this moderate Muslim community is under tremendous threat due to emergence of new generation of Muslims who are politically powerful, economically strong with good educational backgrounds with international exposure especially with some Arabic countries and predominantly Muslim countries of South Asia.

This group believes in practicing Islam according to wahhabism. It is in this context the COI observed that complaints against Zaharan's religious extremism was not brought to the notice of law enforcement authorities by Muslim elite group including politicians who were holding high office under all successive Governments.

When Former President Maithripala Sirisena and Former Prime Minister Ranil Wikramasinghe was summoned before the COI, they were examined as to whether the Muslim politicians of the coalition Government discussed with them the spread of wahabism and associated religious extremism and its danger to national security. The answer was in the negative by both the leaders.

The COI further questioned from them to ascertain as to whether there was any progressive discussions from Muslim politicians even after the speech made by Wijedasa Rajapaksha, the then Minister of Justice and Buddha Sasana on 16th November 2016 on IS penetration in Sri Lanka and Sri Lankan Muslim youths travelling to Syria to join IS. The answer was in the negative again. However, the COI observed through other evidence, the ACJU and some Muslim politicians have diverted the attention by criticizing Minister Wijedasa Rajapaksa as spreading untruth against Muslims. They went on to say that IS is an American ideology and there are no Muslims of Sri Lanka involved in ISIS.

Therefore, this group of Muslims is partly responsible for the distrust and suspicion that the majority community is having in their mind on Islamic religious extremism that was proven with the terrorist attack on 21st April 2019.

At the same time, the extremist Buddhist groups such as the BBS should have been confronted and legal action taken against hate speeches by Rev. Galagoda Aththe Gnansara thero which was not done.

Sinhala Buddhist anti-social religious and lay groups were observing the political agenda when they decided to form their movements. The ignorance, inaction and poor understanding of the grim reality of the emerging Islam religious extremism by political leaders coupled with denial of the truth by some Muslim elite groups including politicians indirectly contributed to weaken the unity, trust and confidence among Sinhala and Muslim Community in the country.

Much regrettably, the then Minister in charge of Muslim Religious and Cultural Affairs M.H.M. Haleem testified that he had no knowledge about intra-religious disharmony among Muslim community in Sri Lanka as well as Islam religious extremism of Zaharan against other religious community. It is the responsibility of Muslim Religious Affairs Minister and the top officials of the Ministry to protect the innocent Muslims from all sort of harassment by Islam religious extremist groups in first place and to be vigilant on such extremism to proactively address the issue without turning a blind eye.

The COI has examined the information available on certain Buddhist and other religious organizations. The COI recommends that the BBS be proscribed and the activities of the other organizations be closely monitored and legal action taken upon findings if any of extremist activity.

1. Sinhala Rawaya: An anti-social Sinhala Buddhist movement. Convener Magalkande Sudatta Thero and the organization collaborate with BBS.

2. Mahasohon Balakaya: Sinhala Buddhist movement led by Amith Weerasinghe together with Ampitiye Sumenerathne thero and reported as rioters of Digena-Theldeniya incident in Kandy in 2018. Very active in social media campaign to recruit members in the name of safeguarding the Buddhism. The posters on social media are of violent in nature addressing the feelings of people in the name of Religion which is extremism. Military training is compulsory for the members who joined the "Largest Army" of Sinhala Buddhist is one of the slogans of this movement. Its role in the Digena-Theldeniya incident in Kandy in 2018 must be fully investigated and criminal proceedings initiated early if there is evidence of wrongdoing.

3. Sinhale Jathika Balamuluwa: It is an anti- social Sinhala Buddhist movement established and operated by some Buddhist monks and lay members from different parts of the country and led by Arambepola Rathanasara thero. According to the evidence available to the COI this group is provoking hate against Muslims by urging Sinhala Buddhist community to boycott Muslim business ventures, eating places and not to sell lands to Muslims etc. In 2015 "Sinha Le " campaign started with a poster war which carried an image of the lion taken from the National flag along with the words Sinha (Lion) in yellow and Le (blood) in red . This was the reinterpretation of the national flag by removing the two coloured strips –saffron and green that represented the Tamil and Muslim Communities. The group introduced various artifacts with its symbol T shirts, caps and stickers were sold to members and interest groups spreading extremist ideology inciting anger among other communities.

4. Sinhale Jathika Sanvidanaya: a Sinhala Buddhist Movement led by Dan Priyasad, a retired Army officer and Amith Weerasinghe's (leader of Mahasohon Balakaya) wife.

6. Siva Sena Movement: a Tamil Hindu organization operating in the North and Eastern provinces of the country. The motto is to protect Tamil lands and Tamil community and finding a lasting political solution to the ethnic problem. Ex LTTE combatant member turned Parliamentarian from the Batticaloa District is the leader while regional leaders are appointed to overlook different areas as well as activities. Religious leaders, Politicians and civil society activists are active members and the organization has its links with Siva Sena Movement of India and the members in large numbers from Maharastra province of India have visited the North in 2017 and had discussed about renovating Hindu temples destroyed during the war and establishment of Hindu Temple based religious schools.

It must be emphasized that there is no evidence to suggest that the Muslim population at large in Sri Lanka is linked with Islamist extremists or terrorists even though there were such speculations in the society ignited by anti-social movements in the country operating against Muslims and the irresponsible social media publicity. In this regard it must be reiterated that the safe house at Saindamarudu was initially located by the Police on information given by the Muslim community in the village who confronted the occupants.

It is therefore timely to initiate action for reconciliation among all communities in Sri Lanka since the tension created among communities due to the terrorist attack in April 2019 and isolated attacks against Muslim communities in May

2019 in Kurunegala and Gampaha Districts may still linger in the minds of some groups.

As a country that has gone through a long period of internal conflict should not forget the consequences of ethno- religious disharmony that may lead to another lasting conflict making life miserable to all walks of the society. Building resilience among communities against violent extremism and incitement to hatred requires a broad–based approach with top political commitment, Religious Involvement and partnerships (civil society, development partners.) within a framework of good governance, rule of law, as well as respect for humanity. This requires strong political will and strengthened institutional mechanism, to tackle the root causes of the religious tensions and intolerance analyzed urgently to achieve sustainable peace.

It was observed that the ACJU has also initiated some progressive steps towards building harmony between Sinhala/Buddhist and Muslim/Islam Community by publishing a series of books on social dialogue, and Islam phobia. However, the COI noted that all books to be revisited. An example, one of the social dialogue books (book 1) it states that drums are being used in Buddhist Temples and they are made using cow's skin. In the name of reconciliation, publishing books of this nature would make communities apart. Readers whether rational or irrational minded will feel angry as they arouse emotions of the reader.

The COI also noted a book by Ustad M.A.M. Mansoor (Nalimi), of Miskath Research Institute titled "Does Al Quo'ran Encourage Violence" as a very progressive step taken by an individual to suppress Islam religious extremists' ideologies inculcating in hearts and minds of innocent Muslim children. The

book by Ustad M.A.M. Mansoor (Nalimi) gives an insightful understanding about certain verse of Holy Quran as only applied in then war situation where Nabi Mohammed was involved in for long years (eg,. Jihad–holy war). ACJU endorsed this and stated Muslims of Sri Lanka cannot wage wars against any community and kill innocent people in the name of Islam. Suicide is in fact haram according to Holy Qur'an. Many Muslim politicians endorsed this position.

The invaluable reconciliation effort by His Eminence Malcolm Cardinal Ranjith , Bishop of Colombo is written in the history of Sri Lanka is immemorial. His Eminence's appeal for Sri Lankans to non-violence , non-retaliation and clemency for enemies saved the country from fuelling ethnic and religious tensions that were about to spread.

The lesson that all Religious leaders of this country should inculcate within them is nothing but the unlimited love for mankind no matter whether they are rich or poor, white or black, belong to what religion, the language of communication etc. They should be able to address the feelings and intellect of their communities and forward them towards the march for unity, peace and harmony for reconciliation and the creation of a Sri Lankan identity.

His Eminence testified for two days before the COI in December 2019 and said that religions are for peace but unfortunately in this consumerist material world religions have become an element to divide humans rather than nurturing, nourishing and uniting them. Mutual respect to others' religions and their beliefs is in the preaching of all religions and no religious leader born to

this world has said to divide mankind, kill humans in the name of god and religious diversity that this country is having today is a blessing according to His Eminence. He went on to state that if religions are followed in the right manner it can lead to social transformation towards a better life. The beauty of Sri Lanka is in its diversity similar to the diversity in our natural environment with vast collection of fauna and flora His Eminence added.

The Government should take concrete steps to identify root causes of religious intolerance and tension and to promote trust among different ethnic and religious communities in the country and act fast based on a well - designed Action Plan (Sri Lanka National Plan of Action for Religious Harmony) under a strong policy as approved by the Parliament to inject a bi-partisan element.

The factual position set out above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators and intelligence agencies.

Chapter 26

Compensation, Welfare Measures and Relief Programs for Victims

One part of the mandate of the COI was to recommend such measures as may be necessary to rehabilitate or assist in any manner persons affected by the events of 21st April 2019.

The COI examined the public and private sector involvement in providing assistance to the victims. Accordingly, following institutions/persons were summoned by the COI to ascertain the reliefs granted and compensation paid to the victims.

The Office for Reparations is operating under the Ministry of Justice and Prison Reforms and was established by Act No. 34 of 2018 by repealing the Rehabilitation of Persons, Properties and Industries Authority Act No. 29 of 1987. According to the objectives of the Act, it is mandated to make policies, facilitate and implement such policies on reparations, to grant individual and collective reparations to aggrieved persons and to monitor an evaluate the progress of delivery of reparations to eligible aggrieved person. Mr. Seeni Mohammed Badurdeen, Acting Director testified before the COI. The Office for Reparations was assisted by Divisional Secretaries of the respective areas of victims domicile. All necessary documents required by the Office for Reparation to effect payments to the victims were processed by the Divisional Secretary and transmitted with recommendations to effect payments.

The Ministry of Public Service, Provincial Council and Local Government is the leading Ministry of the Government on Public Service and the Management of

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Public Administration. It is responsible for efficient and effective service delivery to the citizens in general and its internal and external customers in particular. The Ministry as the leading government agency in managing human resources of the public sector is mandated to ensure wellbeing and welfare of the workforce.

Several officers of the Ministry of Public Service, Provincial Council and Local Government were summoned by the COI to ascertain the welfare measures and compensation paid to the victims of Easter Sunday attacks. They were Mrs. R.M.S. Rathnayeke, Deputy Director Establishment, Mr. K.G. Hirana Helaruwan Kiriella, Divisional Secretary, Katana under whose administration and supervision the payment of compensation to the victims of the bomb blast at St. Sebastian's Church, Katuwapitiya was made and Mrs. M.A. Surangi Kanchana Gunawardene, Divisional Secretary, Colombo under whose administration and supervision the payment of compensation to the victims of the bomb blasts at St. Anthony's Shrine – Kochchikade, four hotels and a motel in Colombo and the Mahawila Garden , Demetagoda was made.

Government officials who gave evidence before the COI explained at length the compensation and various welfare & relief measures offered to the victims of the Easter Sunday bomb attacks. It was mentioned that treasury funding has been made available with the approval of the Cabinet of Ministers to provide financial support to the victims (dependents of the dead persons, injured persons and persons whose properties were damaged). Government through Treasury had allocated Rs. 301,062,500/= for this purpose.

Compensation Payments to the victims of the Terrorist Attacks on 21.04.2019

(Progress Report up to 06.12.2020)

	Incident	No. of Cases and Amounts Paid			
		For Death		For Injury	
		No. of Cases	Amount Paid (Rs.)	No. of Cases	Amount Paid (Rs.)
1.	St. Sebastian Church, Katuwapitiya	108	108,000,000	280	45,087,500
2.	Zion Church, Batticaloa	30	30,000,000	79	13,325,000
3.	St. Anthony's Church, Kochchikade	50	50,000,000	102	16,575,000
4.	Shangri-La Hotel	10	10,000,000	11	2,275,000
5.	Cinnamon Grand Hotel	7	7,000,000	13	1,900,000
6.	Kingsbury Hotel	1	1,000,000	9	1,225,000
7.	Tropical Inn – Dehiwala	2	2,000,000	-	-
8.	Mahawila Gardens, Dematagoda	3	3,000,000	-	-
9.	Foreigners	9	9,000,000	12	675,000
	Total	**220**	**220,000,000**	**506**	**81,062,500**
	Total Death Cases	**220**			
	Amount Paid for Death Cases	**220,000,000**			
	Total Injured Cases	**506**			
	Amount Paid for Injured Cases	**81,062,500**			
	Total Cases Death & Injury	**726**			
	Grand Total (Rs.)	**301,062,500.00**			

Source: Office for Reparation

These payments had been made on a Cabinet decision and associated circulars issued by the Government under the Office for Reparation assigned with the task of payment of compensation to the victims of terrorist attacks. Cabinet Memorandum dated 22.04.2019 and the decision dated 25.04.2019 were submitted to the COI by Acting Director, Office for Reparations.

Accordingly, the Office for Reparation has paid Rs. 1 million each to deceased persons. A maximum of Rs.5,00,000/= and minimum Rs. 50,000/= had been paid to injured persons depending on the magnitude of the injuries suffered. Out of Rs. One million, Rs. 1,00,000/= has been paid immediately for meeting the cost of funeral arrangements.

However as set out in the above schedule, even the maximum limit of five hundred thousand had been paid only to a minute percentage of the injured. On making inquiries, the COI was informed that the computation of the Rs. five hundred thousand was on the earning capacity of the individual, and not on his injuries.

The basis of such computation defies explanation and would shock the conscience of any reasonable person. These were people, as clearly set out above, Rev. Fr. Lawrence Ramanayake, who suffered horrendous injuries, most of whom were maimed for life. It is ironic, that the Acting Director himself conceded that the gross total allotted was wholly inadequate.

The COI observes that compensation has been paid for the deaths of 220 persons. However according to the evidence 271 deaths occurred due to the several incidents on 21st April 2019. The COI recommends that the Government pay compensation for the balance 51 deaths as well.

There is a further aspect. Compensation for death and disability were paid to all the victims including foreigners by the Government based on government

policy as approved by the Cabinet of Ministers. However the COI observed that there are deviations in payment of compensations to the victims of Digana and Beruwala incidents compared to the victims of the Easter attack.

These incidents arose due to the eruption of riots between sections of the Buddhist and Muslim communities in 2018. The compensation paid on death is twice the amount of compensation paid to the victims of Easter Sunday bomb attacks. Also the actual cost of the properties damaged due to the riots have been paid to Digana and Beruwala victims, but not to the victims of Easter Sunday bomb attacks.

The COI does not observe any rational critieria on which such a distinction could be made between the two incidents. At a minimum, on both occasions the Government failed to provide the required security to its citizens.

The COI also examined the initiatives taken by the Catholic Church to provide welfare measures to the victims of the Easter Sunday attack.

SETH SARANA known as Caritas Colombo is affiliated to Caritas Sri Lanka (SEDEC), the National Secretariat for Justice, Peace and Human Development Commission of the Catholic Bishops Conference of Sri Lanka, and is incorporated by Act of Parliament No. 17 of 1983. SETH SARANA is the Social Action Arm of the Archdiocese of Colombo. This charitable organization has been established by the present Archbishop of Colombo, His Eminence Malcolm Cardinal Ranjith, Archbishop of Colombo in 1986 as the Archdiocesan Director of the Human Development Commission at that time.

Realizing the gravity of the loss suffered, SETH SARANA had divided the affected families into the following two basic categories in order to effectively provide assistance, aid and relief for such families, despite whichever

community, caste, creed and religion they had belonged to;

1. Families which had lost a member/members as a result of the said attack and

2. Families which had a member/members who was injured as a result of the said attack.

1. Families which had lost a member/members as a result of the attack

- These families are also further categorized into the subcategories of - Direct and Indirect.

    - Direct families are families in which an immediate family member had died as a consequence of the said attack (such as a Father, Mother, Daughter, and Son).

    - In the event that the deceased person was not of an immediate family member, and considered such a family as a "Related Family" (such as the death of a Father-in-law /Mother-in-law and/or any other such relationship by law).

SETH SARANA had paid a sum of Rs.100,000/= for each of these families who had lost their direct or related members, as a relief to cover their funeral expenses. (Ex: If 2 members had been deceased in a family a total sum of Rs. 200,000/- were paid for such family).

2. Families which had a member/members who was injured as a result of the attack

- These families were further categorized into three subcategories - Critical, Major and Minor.
- An initial payment of relief was made to each injured person amounting to a sum of Rs.50,000/= for medical expenses within the first week itself.
- Thereafter based upon a survey conducted and subsequent visits to each of these affected families, a secondary donation was made for them taking into consideration the gravity of the injuries sustained.
- The primary objective of these relief efforts was to assist these families to cover their medical expenses and the other day to day expenses incurred.
    - The beneficiary selection criteria.

Priority has been given to the categories below. A committee was setup to evaluate the backgrounds of the affected families and had introduced the following beneficiary selection criteria:

1. Children below 18 years of whom both parents are deceased.
2. Children above 18 years of whom both parents are deceased – Children who are unmarried and have no income.
3. Families in which only one member is alive and all other family members are deceased.
4. Families in which the deceased person had played the role of,
    - I Breadwinner
    - II Having a wife who is pregnant

III Having children who are below 18 years of age

IV Having children who are above 18 years of age and are unmarried

5. Families in which a member is permanently disabled.
6. Families in which a members critically injured.

In all of the aforementioned categories, all the medical expenses were borne out by SETH SARANA.

SETH SARANA also provided the following family focused support programs for the affected families to start new businesses and settle loan payments in order to improve their financial conditions;

1. Income generation programme for all affected families promoting home-based small scale businesses amongst these families to boost their household income.
2. Scholarships for all the children who are directly affected.
3. Loan settlements.

SETH SARANA has proposed the following activities as necessary interventions to ensure smooth operations of day to day life of the victims of Easter Sunday attacks.

- Educational support for the affected Children

  Government to set up a special Scholarship program for the children who are affected and are victims of the Easter Sunday attacks in areas such as vocational training, higher educational support and advancement in sports.

- Livelihood help – Skill based

  Government to introduce a special Livelihood support program

for the affected families to commence and/or improve their businesses through special cash grants.

- Medical Support

  Government should provide a special Medical insurance coverage for all such critically injured persons of the Easter Sunday attacks.

- Housing Needs

  Government to give priority to cover the housing needs of the affected families in which the breadwinner is deceased and/or wherein there are critically injured members, and are living on rent.

- Priority for jobs in Government sector

  Government to provide a system of offering job vacancies in the Government sector for the children affected by the Easter Sunday attacks.

- Foster parent schemes

  Government to undertake a program to ensure the well-being of the children who had lost both parents and who are below 18 years of age are addressed.

- Loan settlements including leases

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A total sum of Rs. 42.9 million had been given to 114 families affected by the bombing at the St. Anthony's Church in Kochchikade by the Archbishop of Colombo. A total sum of Rs 95.579 million had been given to 281 families affected by the bombing at the St. Sebastian's Church in Katuwapitiya by the Archbishop of Colombo. A total sum of Rs. 10 million had been donated to Zion Church by the Archbishop of Colombo.

At present the Archbishop of Colombo is providing financial assistance to meet the requirements for ongoing medical treatments and surgeries of about 37 persons, and also providing funds for income generation and day to day running expenses of these victims who are unable to cope up with such circumstances due to being adversely affected by the Easter Sunday attacks.

In considering compensation and welfare measures for the victims of the Easter Sunday attack, it must be borne in mind that some victims need long term therapy. There are victims who had been hospitalized for a long period. Some of these patients may be disabled for a long period of time and require continuous ongoing care and assistance in order to return to normalcy.

The COI makes the following recommendations:

1. Government to pay compensation of Rs. 2 million for each deceased person and above Rs 5,00,000/= up to actual expenses for all injured persons.

   The COI observes with great regret the compensation paid to the victims of Easter Sunday terrorist attacks. They are totally inadequate considering the

negligence on the part of the government. It is inadequate due to the failure on the part of the government to prevent the attack although the information on the terrorist attack was available 17 days prior to the attack.

Government policy decision was unfair and biased when compared to Digana and Beruwala victims and the compensation paid for death and injury to persons and damage to property. The question arises as to why such a difference was made in the case of the Easter Sunday victims.

Where the government fails to provide security to its citizens due to negligence, it is incumbent on the government to pay compensation commensurate with the loss or damage. Hence sufficient and reasonable amount of compensation should be paid similar to the victims of Digana and Beruwala incidents.

In order to generate the funds required for the above mentioned proposal, the COI recommends enacting legislation to confiscate all properties, including business properties, of the suicide bombers. Such legislation may have to be retrospective in operation to some extent since the COI heard that some of the suicide bombers had transferred their properties after deciding on the suicide attacks.

2. Act No. 34 of 2018 of the Office For Reparations has provisions to request funds for life long welfare for the most needy persons among the victims under a project proposal submitted to the cabinet for approval. Hence the COI recommends a comprehensive proposal be submitted by the Office for Reparations to the Line Ministry for obtaining Cabinet Approval for further funding. It is suggested that this cabinet paper cover requirements

proposed by SETH SARANA as set out above as well as the proposals of the COI. It is important to work out a welfare project for the victims of Easter Sunday terrorist attack to continue for a period of 5 years by the allocation of funds on a staggered basis annually from the Treasury.

3. Government to expeditiously find out the truth behind the Rs 1 billion donation pledged by the World Muslim League, that has not been realized so far and take all necessary steps possible to obtain it.
4. Government to pay/ reimburse actual cost of medical bills of Mr. Thasleen, Co-coordinating Secretary to then Minister Kabeer Hasheem for his invaluable service rendered to the CID in uncovering the Wanathawilluwa training camp.
5. Government to make a reward payment to the next of kin of Late Mr. Ramesh Raju of the Zion Church Batticaloa for his bravery that led to a minimizing of the death toll.
6. The Ministry of Public Service, Provincial Council and Local Government is making policies on relief and welfare measures that are not cash or in kind but to grant special privileges. One such is instance is the allocation of a percentage of additional marks for victims of terrorist attacks who sit for competitive examinations for the selection to government service employment. PA circular 17/92 dated 1992.03.24 was effective for victims of terrorist attacks during the LTTE insurgence which has now being abandoned. The COI recommends the issue of a similar circular to apply to the victims of the Easter Sunday bomb attacks.

The factual position outlined above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of experts.

Chapter 27

Post-Easter Sunday Attack Violent Incidents

The mandate of the COI required it to identify persons and organizations, who are connected with public protests, acts of sabotage, causing damages to properties and persons and thereby causing public unrest, after the attack took place on 21st April 2019.

Three weeks after the Easter Sunday attacks, the country had to face a different challenge, the prospect of a backlash against the Muslim community with potentially serious consequences. Clashes were reported mostly in the North Western Province and in Negombo and Minuwangoda. Several shops, houses and religious places were damaged when mobs attacked them and set them on fire.

Catholics and Muslims in Negombo, have been living together peacefully for many years, and there is no record of ethnic clashes. However, in the aftermath of the attack on St. Sebastian's Church, Katuwapitiya relations between the city's Catholics and Muslims grew tense.

President of the Negombo Grand Mosque, revealed, that he was shocked when he heard that a group of radicalized Sri Lankan Muslims had carried out the attack, along with other Muslims in the capitol and suburbs. My three children are currently studying at a Catholic school. We have been part of this society, but we suddenly felt isolated, witness said.

On 5th May 2019, nearly 14 days after the suicide bombings, violence erupted between Negombo's Christians and Muslims. Despite a curfew, mobs attacked shops and houses belonging to Muslims. Nearly 70 houses and a dozens of trishaws were damaged. The army was also deployed, but victims allege that the soldiers came too late.

Soon after, clerics from the Sri Lankan Muslim group All Ceylon Jamiyyathul Ulama (ACJU) visited the Negombo mosque together with the Archbishop of Colombo, Malcolm Cardinal Ranjith, to speak about communal harmony. The archbishop urged Christians to refrain from carrying out attacks, although he admitted that he couldn't do much to console his wounded community.

While the initial attack was reported in Chilaw, the unrest quickly spread to other areas of the North Western Province.

Mobs attacked several mosques, torched dozens of shops and homes of Muslims in Kurunegala District. It was the biggest outbreak of violence since the April 21 Easter attacks.

A police curfew, initially imposed in six villages in the district, was later extended to cover the entire island until next morning, amid fears of the attacks spreading.

On the 12th May 2019 initially violence erupted in Chilaw town. The reason was a facebook comment by a Sinhalese person indicating Not to do shopping in Nolimit. A Muslim boy who was working in Nolimit shop at Chillaw town reacted by a facebook comment and the Sinhalese people in Chilaw town began reacting against the Nolimit worker. The COI observed dozens pelting stones at mosques and Muslim-owned stores, and a local man being beaten by a mob, prompting a police curfew.

The Police arrested the author of the facebook post, identified as 38-year-old Abdul Hameed Mohamed Hasmar, whose online comment, One day u will cry, was said to have been interpreted as threatening violence.

Another group of people congregated in the town of Chilaw allegedly following a new facebook post which claimed that there was a plan to attack the town. An immediate police curfew was imposed and the situation was brought under control without further damage. Two people were later arrested over the said incident.

The clusters of villages in Kurunegala district were mainly affected. Kuliyapitiya, Kobeigane, Rasnayakapura, Hettipola, Bingiriya and Dummalasuriya were mostly damaged. Witnesses disclosed that the destruction began in the afternoon on the 13th May 2019. It looked like the mobs had planned to move from one village to the next, attacking Muslim homes and property. Some groups came on motorbike and started attacking mosques and Muslims shops. The villagers were either indoors, or hiding in the nearby jungles in fear.

At least three mosques were attacked in nearby Kiniyama. According to witnesses one mosque was fully destroyed. Glass was strewn across the Abrar mosque in the town of Kiniyama that was attacked. A witness testified and said that all the windows and doors of the soft-pink building were smashed and copies of the Quran were thrown onto the floor.

A mosque official testified that the attacks were triggered when several people, including some Buddhist monks, demanded a search of the main building after soldiers had inspected a lake nearby.

A witness who was at the mosque said about 150 to 200 people came towards the mosque with rods and swords on 13th May 2019, but the Muslims who were in the mosque persuaded them to go away with the help of the Police. But a little later they came back, and this time there were about 1,300 people. The Muslims, huddled in the mosque, asked the Police to fire in the air to disperse the mob, but the police said the people wanted to inspect the mosque for weapons. Then the crowd surged into the mosque and ransacked it, the witness said. They have destroyed and burned Qurans, broke every glass window and door and urinated on the water storage which Muslims used to take ablution, he further testified.

There had been some damage to property in Hettipola area but no injuries reported. The police also fired in the air in Hettipola.

One Muslim person was killed in Maravila, Koswatta on 13th May 2019. The police fired tear gas at mobs attacking mosques and Muslim owned shops and imposed a curfew after the worst outbreak of sectarian violence since the Easter bombings by Islamist militants. A 42 year old man who was admitted to the Maravila hospital with stab wounds had died on admission. A witness testified that there were hundreds of rioters, police and army were just watching. Mobs have burnt few mosques and smashed many shops owned by Muslims.

<u>Minuwangoda (C 1416)</u>

It was revealed that on the 13th May 2019 more than 1500 people gathered to Minuwangoda town around 5.45 pm. They have started attacking shops and hotels owned by Muslims. Mr. Roshan Wijewardana who was the SSP Gampaha at that time (presently DIG Badulla) immediately alerted the

surrounding Police Stations. When he arrived near the Faus Hotel on Katunayaka-Minuwangoda Road, people were attacking and damaging that hotel. SSP has informed army to send troops to control the situation. The STF was summoned when a large number of attackers arrived there. About 2000 odd mobs were involved for the attack. The police could not control the crowd as they were behaving violently.

Some of the damaged shops were belongs to the Municipal Council of Minuwangoda. It was revealed that those tenants were occupying most of the shops even after their Lease was expired. Majority of those shops were completely damaged. Some of the witnesses indicated that Municipal Council purposely allowed the mob to destroy the shops, as they wanted to get them back to the Municipal Council to construct a new Super Market Complex on the same premises.

There was a speculation on 13th May, that a Muslim boy in Polwatta area came to the village temple and stabbed a Buddhist monk. This news spread within a short time in the whole of Minuwangoda area. People gathered at the Polwatta temple as they got panicked when they heard this story. Few people tried to speculate this story to create unnecessary tension in the area. It was revealed by the two Buddhist monks who came to give evidence that "stabbing story" was completely false.

Anamaduwe Sirisumana Thero (Podi Hamuduruwo) made a false claim against the Muslim community and a person called Jagath from Polwatta area in Minuwangoda has organized the anti-Muslim campaign according to the evidence available before the COI. Therefore, the actions of Jagath, his friends, Anamaduwe Sirisumana Thero and others who were involved in this anti-

Muslim campaign, should be further investigated and should be prosecuted accordingly.

Attacks in Minuwangoda town started after few youths in the town, gave calls to their friends and informed them to rush to the town because Minuwangoda town is under attack. A person called Rahal Alwis and Athula Dayarathna alias Jagath, from Galoluwa Village in Minuwangoda were behind organizing anti-Muslim riots in Minuwangoda. A popular singer Madumadawa Aravinda was also in Minuwangoda during those riots on the 13th May 2019. His explanation was acceptable and cannot be considered as to why he decided to pass through Minuwangoda town around 7.30pm on the 13th May.

Denipitiye Sudamma Thero and Anamaduwe Sirisumana Thero gave evidence and confirmed the fabricated story of Jagath and his friends, alarming others in the village and adjoining Muslim village was a target for the mob.

It was evident that 50 Police officers were on duty in Minuwangoda Town on 30th May 2019. More police contingencies were brought to the town when violence was escalating. It looked like the Police was not ready to face such a situation. 3 Sinhalese youths were injured and admitted to the hospital according to SSP Liyanage who was in charge of Kelaniya District 1. Those who came to attack Minuwangoda Town were from Wegauwa and Halloluwa areas. There were about 300 shops and business premises in Minuwangoda town. Out of that nearly 60 shops were owned by Muslims.

Textile Business premises called "Eco" which is situated on Minuwangoda-Negombo road was completely damaged. Owner is a Sinhalese lady who has constructed the 4 storied building few months before the riots. She testified and said her damaged was assessed at Rs. 55 Million. Her grievance was she was not paid anything, but all Muslim shop owners in Minuwangoda were given compensation considering their damages. It was not clear why her compensation was not paid.

Chairman of the Municipal Council of the Minuwangoda was summoned to give evidence and he indicated that there were 150 shops belonging to the Municipal Council, which were all occupied by Muslim traders. 29 shops were completely damaged and out of those there were 10 shops belong to Muslim Traders.

It was revealed that the water bowser belonging to the Minuwangoda Municipal Council was not sent purposely to stop the fire immediately. Chairman of the Municipal Council admitted that there was a delay but testified that it was due to a mechanical fault. The maintenance book of the said water bouser was submitted to the COI as a proof, saying that it was not in a good running condition. But we noticed that pages 3 and 4 of the said maintenance books were altered. It was marked as C 1419 A and C 1419 B.

Number of incidents took place in Minuwangoda	-	78
Number of Business premises Damaged by attacks	-	40
Number of Business premises Damaged by Arson	-	27
Number of Mosque damaged by stoning	-	01
Number of Muslim houses damaged	-	09
Number of Factories damaged	-	01

Number of suspects arrested and produced in courts - 47

Magistrate Court proceedings have been already initiated with nregard to the Minuwangoda incidents. Jagath and his subordinate's activities should be further investigated through the CID.

Kuliyapitiya Police (C 1427 & C 1428)

Kuliyapitiya Police area 37 incidents -

Kuliyapitiya Police area number of persons arrested - 20

On the 12th May 2019 there were 37 incidents took place in Kuliyapitiya Police area 17 people were arrested and produced before courts several shops and building ware damaged. Within the 3 to 4 hours police manage to control the violence in Kuliyapitiya.

Number of incidents took place in Kuliyapitiya - 37
Number of Business premises Damaged by attacks - 14
Number of Mosque damaged by stoning - 02
Number of Muslim houses damaged - 21
Number of suspects arrested and produced in courts - 20

Dummalasuriya (C 1426)

Dummalasuriya Police area 2 incidents

Dummalasuriya Police area number of persons arrested - None

Number of incidents took place in Minuwangoda - 02
Number of Business premises Damaged by attacks - 01
Number of Business premises Damaged by Arson - 01

Bingiriya (C 1422)

Police found a bag full of ammunitions near Kiniyama Lake in Bingiriya. This was brought to the lake by unknown person. Villages got panic after seen those ammunitions. They immediately reported this to the Police. A day prior to this incident police got information that Muslim people have brought and dumped few bags of ammunitions in Kiniyama Lake. Navy personal were brought and full search was done in the lake. But nothing was found. On the following day a bag full of ammunition was kept near the bathing step enabling a person to see it when he comes to the lake. As it was not inside water, a person who wanted to create a tense situation must have dumped those ammunitions near the Kiniyama Lake. 2 people were arrested on suspicion and produced before the court.

Bingiriya Police area 08 incidents

Bingiriya Police area number of persons arrested 09

Number of incidents took place in Bingiriya - 08
Number of Business premises Damaged by attacking - 04
Number of Business premises Damaged by Arson - 01
Number of Mosque damaged by stoning - 03
Number of suspects arrested and produced in courts - 09

President's Secretary's Copy



This mosque in Kiniyama was one of the places attacked

Hettipola (C 1431)

Hettipola Police area 200 incidents

Hettipola Police area number of persons arrested 12

Six people who were arrested by Bingiriya Police, for damaging Muslim shops were brough to Hettipola Police Station to produced them before the Magistrate-Hettipola. Nearly 500 people gathered outside the Hettipola Police Station and demanded to release them. They were about to attack Hettipola Police Station. At that time Minister Dayasiri Jayasekara came to Hettipola Police Station to inquire about the people's demand.

According to his testimony those people requested to release the 6 suspects arrested by Bingiriya Police. The Minister spoke to the DIG Kurunegala and got permission to release them on police bail. As there was no vehicle to transport those arrested suspects, Dayasiri Jayasekara voluntarily took those 6 people in his jeep to Bingiriya Police Station. His explanation was that the mob who surrounded Hettipola Police Station behaving very violently. As a member of Parliament in Hettipola electorate, Dayasiri Jayasekara managed to convince the crowd that the suspects will be released on police bail after they will take back to Bingiriya Police Station.

At the same time Namal Kumara, who was a suspect of attempted assassination charge against President Maithreepala Sirisena, also appeared near the crowd at Hettipola Police Station. Dayasiri Jayasekara suspected Namal Kumara is the person who was behind organizing riots in Hettipola. But there was no evidence to prove that allegation. For a moment there was a heated argument between Dayasiri Jayasekara and Namal Kumara in front of Hettipola Police Station.

After some time Dayasiri Jayasekara went away in his Jeep with the six suspects and Namal Kumara left to his destination. Then people who gathered in front of Hettipola Police left the Police Station and heading towards the Hettipola Town Centre. On the way to the town this group of 500 odd people attacked Muslim shops and Muslim houses in Hettipola Town.

It was revealed that police could not control the crowd. There was no enough strength for the Police troops to calm down the tense situation.

President Secretariat's copy

In Hettipola area there were many incidents and several Muslim shops were attacked. People came from unknown destinations to attack the shops belongs to Muslim people and vanished within a short time.

Number of incidents took place in Hettipola	-	200
Number of Business premises Damaged by attacking them (value Exceed Rs. 25,000/-)	-	114
Number of Business premises looted by attacking them (value less than Rs. 25,000/-)	-	08
Robed	-	01
Minor offences	-	39
Number of Mosque damaged by stoning	-	01
Number of suspects arrested and produced in courts	-	11

Katupotha (C1423)

Katupotha Police area 05 incidents

Katupotha Police area number of persons arrested 07

Number of incidents took place in Katupotha	-	05
Number of Business premises Damaged by attacks	-	04
Number of Mosque damaged by stoning	-	01
Number of suspects arrested and produced in courts	-	07

Narammala (C1424)

Narammala Police area 03 incidents

Narammala Police area number of persons arrested 02

Number of incidents took place in Narammala	-	03
Number of Business premises Damaged by attacking	-	01
Number of Business premises Damaged by Arson	-	01
Number of Mosque damaged by stoning	-	01
Number of suspects arrested and produced in courts	-	02

Pannala (C1425)

Pannala Police area 01 incidents

Pannala Police area number of persons arrested - None

Number of incidents took place in Pannala	-	o1
Number of Business premises Damaged by atatcks	-	01

Chilaw (C1436)

Chilaw Police area 09 incidents

Chilaw Police area number of persons arrested - 06

Number of incidents took place in Chilaw	-	09
Number of Business premises damaged by attacks	-	08
Number of Mosque damaged by stoning	-	01
Number of suspects arrested and produced in courts	-	06

President Secretary's Copy

Dankotuwa (C1437)

Dankotuwa Police area 13 incidents

Dankotuwa Police area number of persons arrested - 07

Number of incidents took place in Dankotuwa	- 13
Number of Business premises Damaged by atatcks	- 01
Number of Mosque damaged by stoning	- 01
Number of Muslim houses damaged	- 11
Number of suspects arrested and produced in courts	- 07

Marawila (C 1438 & C1439)

Marawila Police area 42 incidents

Marawila Police area number of persons arrested - 20

Number of incidents took place in Marawila	- 42
Number of Business premises Damaged by attacks	- 26
Number of Mosque damaged by stoning	- 04
Number of Muslim houses damaged	- 12
Number of suspects arrested and produced in courts	- 20

Koswatta (C)

Koswatta Police area 45 incidents

Koswatta Police area number of persons arrested - 15

Number of incidents took place in Koswata	- 45
Number of Business premises Damaged by attacks	- 06
Number of Mosque damaged by stoning	- 02
Number of Muslim houses damaged	- 36
Number of persons dead	- 01
Number of suspects arrested and produced in courts	- 15

Nikaweratiya (C 1471)

Nikaweratiya Police area 67 incidents

Nikaweratiya Police area number of persons arrested - 46

Number of incidents took place in Nikaweratiya	- 67
Number of Business premises Damaged by attacks	- 37
Number of Mosque damaged by stoning	- 02
Number of Muslim houses damaged	- 28
Number of suspects arrested and produced in courts	- 46

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Kobeigane (C 1471)

Nikaweratiya Police area 02 incidents

Nikaweratiya Police area number of persons arrested - 03

Number of incidents took place in Nikaweratiya	- 02
Number of Business premises Damaged by attacks	- 02
Number of suspects arrested and produced in courts	- 03

Negombo (C 1452)

Negombo Police area 55 incidents

Negombo Police area number of persons arrested - None

All the complaints were withdrawn by the complainant him selves and therefore no further action was taken.

Number of incidents took place in Negombo	- 55
Number of Business premises Damaged by attacks	- 21
Number of Mosque damaged by stoning	- 01
Number of Muslim houses damaged	- 28
Number of Vehicles damaged	- 05

Kochchikade

Kochchikade Police area 13 incidents

Kochchikade Police area number of persons arrested - 17

Number of incidents took place in Kochchikade	- 13
Number of Business premises Damaged by attacks	- 08
Number of Muslim houses damaged	- 05
Number of Vehicles damaged	- 17

Katana

Katana Police area 30 incidents

Katana Police area number of persons arrested - 34

Number of incidents took place in Katana	- 30
Number of Business premises Damaged by attacks	- 08
Number of Muslim houses damaged	- 22
Number of suspects arrested and produced in courts	- 34

Dungalpitiya

Dungalpitiya Police area 01 incidents

Dungalpitiya Police area number of persons arrested -

Number of incidents took place in Dungalpitiya	- 01
Number of Business premises Damaged by attacks	- 01
Number of suspects arrested and produced in courts	- 02

President Secretary's Copy

Katunayaka

Katunayaka Police area 02 incidents

Katunayaka Police area number of persons arrested - 04

Number of incidents took place in Katunayaka	- 02
Number of Business premises Damaged by attacks	- 02
Number of suspects arrested and produced in courts	- 04

It was also revealed that Local Government politicians were seen instigating the mobs in certain areas. Such miscreants should be identified and legal action should be taken against them. Their conduct also spells out a worrisome prospect, in that it is these Pradeshiya Sabhas and Provincial Councils that form the nurseries for Parliament membership and from the look of things the August Assembly will continue to accommodate the kind of characters even surpassing the current crop, in their propensity for violence.

A Muslim man from Nikawaratiya in the North Western province, whose shop was partially destroyed by mobs, revealed that although the attack was anticipated, security forces did little to prevent it. It seems clearly that the police did not do anything to stop the violence. Two police officers were placed two or three shops away, for the protection of the mosque in the local area. And they were there when the mob came and attacked the local shops, as shown by the photos and CCTV footage. Witness provided CCTV footage that led to the arrest of some of the attackers, but that they were released on bail after 14 days.

When a wave of attacks was happening against the Muslim-owned businesses and Muslim neighbourhoods, some people reached out to Koswatta police. They assured that nothing would happen. The officers assured that they will send protection as well. But the police only showed up at 7 p.m. when they finished burning homes and there was no use of them showing up afterwards.

The factual position outlined above forms part of the evidence before the COI obtained through oral and documentary evidence and includes testimony of investigators.

President's Secretary's COPY

Chapter 28

Construction of Places of Religious Worship

The number of Buddhist temples registered with the Department of Buddhist Affairs between 2015 and 2020 are 348 in 2015, 473 in 2016, 420 in 2017, 303 in 2018, 370 in 2019 and 120 in 2020.

The number of Christian churches registered with the Department of Christian Religious Affairs from 2014 to 2018 is 1952. This includes churches which had been in existence over a long period. In 2019, 82 churches and in 2020, 32 churches were registered. According to evidence received from the Department of Christian Religious Affairs, no permission had been granted to commence new churches after 2015.

A total of 1168 Hindu temples were registered with the Department of Hindu Religious and Cultural Affairs between 2015 and 2020. A year wise break down is 223 in 2015, 181 in 2016, 199 in 2017, 193 in 2018, 305 in 2019 and 67 in 2020.

As at 21st August 2020, there are a total of 2534 Muslim mosques and shrines in the country. In addition presently there are 951 unregistered mosques in the country.

In this context the attention of the COI was drawn to Muslim Mosques and Charitable Trusts Act No. 33 of 1982 or the Wakfs Act. Section 10 permits a trustee of a mosque to make an application for registration within six months of it been opened for public worship.

Section 13B of the Wakfs Act requires the Wakfs Board to take certain acts in relation to unregistered mosques which the Board considers should be

registered. However the evidence of the Director of the Muslim Religious and Cultural Affairs Department was that no such action has ever been taken in the history by the Wakfs Board. This is a matter that must be examined closely and required administrative action taken immediately.

According to the evidence before the COI presently there is no legal requirement to obtain specific approval for the construction of a place of religious worship prior to its construction.

The COI was presented with evidence of the indiscriminate construction of places of religious worship including statutes. These activities have led to many disputes amongst adherents of different faiths as well as the same faith.

Some of such incidents are as follows:

(a) Construction of a building for Muslim women to perform religious activities at No. 102/1, Hijrapura, Rajawella within the Teldeniya Police division

(b) Construction of a new office on 19.05.2018 by SLTJ at No. 6/F Jayasundera Mawatha, Owita, Nawalapitiya within the Nawalapitiya Police division

(c) Construction of a new Muslim Arabic College for women at No. 31/1, Elamaldeniya, Muruthagahamula within the Daulagala Police division

(d) Construction of a building by SLTJ at No. 391/C, Hiragalkotuwa within the Maduragoda Grama Niladhari division.

(e) Construction of a mosque by JASM organization at Akbar Mosque Cross Street within the Valachcheni Police division. The dispute was with Thablik Jamath members.

(f) Construction of a mosque at Jayanagar, Kuchchaveli by the SLTJ.

(g) Construction of a thowheed mosque at Udayar Mawatha, Ihalagama, Hadirawalana within the Wellawa Police division in 2017.

In this regard the evidence of Hon. M.H. Abdul Haleem, presently Member of Parliament and previously the Minister of Muslim Religious and Cultural Affairs, in response to a question posed by the learned State Counsel are relevant:

ප : තුමා මේ මෙම කොමිසමට කරුණු ඉදිරිපත් වෙලා තිබෙනවා ගරු මන්ත්‍රී .දේශය ගැන තමයි වාර්තා වුණේමුස්ලිම් පල්ලි ඔය කාත්තන්කුඩිය ප්‍ර .නමුත් තවත් බුද්ධි තොරතුරුත් තියෙනවා මේම කොමිසම හමුවේ මුස්ලිම් පල්ලි ඉතාමත්ම වේගයෙන් හතු පිපෙන්නා වගේ සමහර ප්‍රදේශවල එකපාරටම මතු වෙනවාඑම මතුවීම තුළ විදේශ රටවල්වලින් . විශේෂයෙන්ම ඔය සෞදි අරාබිය, කුවේට්, කටාර් රාජ්‍ය එම රටවල්වලින් ආධාර ලැබීම නිසා තමයි මෙම ඉස්ලාම් ආගමික මුස්ලිම් දේවස්ථාන හතු පිපෙන්නා වගේ රට තුළ බිහි වෙන්නේඒක ඔය ඔබතුමා සඳහන් කළ . ආකාරයටම අනිත් නිකායන් අතරත් ගැටුම් ඇතිවීමට හේතුවක් වෙලා තියෙනවා කියලාඒ කියන්නේ මුස්ලිම් ආගමේම නිකායන් එකිනෙකා . තුමා දැන් ඔබතුමාට අමාත්‍ය .රණ්ඩු කර ගන්නවා මේ පල්ලි ඇතිවීම නිසා හැටියට වැඩ කරනකොට මෙම තොරතුරු වාර්තා වුණේ නැද්ද මේ හතු ධපිපෙන්නා වගේ එක එක විදේශ රටවල්වලින් මූල්‍යාංාර ලැබෙමින් පල්ලි ඉදිකිරීම පිළිබඳව .

පි : ඒ නිසා තමයි මම නිතරම කියා සිටියේ මේ පල්ලි ඉදිකිරීම් නැවැත්විය ඒ වගේම තියෙන පල්ලි ඔක්කොම .මාණය ඇතිපල්ලි තියෙන ප්‍ර .යුතුයි එතකොට තමයි ඒ .අනිවාර්යයෙන්ම ලියාපදිංචි කළ යුතුයි කියන එක පල්ලිය අපට පාලනය කර ගන්න පුළුවන් වෙන්නේන් දැන් ඇත්තටම දැ . එහෙම පාලනයක් නැත්නම් ඒ පල්ලිවලට එන මුදල් ආධාර ගැන කිසිම සොයා බැලීමක් කවුරුත් කරන්න බැහැ, කරන්නේ නැහැඉතිං ඇත්තටම . .යි එවිවර පල්ලිඅනවශ්‍ය .ව අධිකයිදැන් තියෙන පල්ලි සංඛ්‍යා

In a multi-racial and multi-religious country such as Sri Lanka, it is important that the State promotes religious harmony by preventing such disputes. Article 27(5) of the Constitution guides the Parliament, the President and the Cabinet of Ministers to strengthen national unity by promoting co-operation and

mutual confidence among all sections of the people of Sri Lanka including religious groups.

The restriction of indiscriminate construction of places of religious worship in a manner that will not promote discord and dissatisfaction among the adherents of different religions will help promote the rights and freedoms of all religions and thereby give effect to this Directive Principle of State Policy.

Such regulation of the construction of places of religious worship is enforced in many countries. Indonesia adopted such measures for the first time in 1969 by the Joint Decree 1/1969 which aimed at controlling religious activities and the building of places of worship for all religious communities and was administered by the Department of Religion. To obtain a permit to build a place of worship, a religious community was required to obtain permission from the mayor/regent. In making their decision, the mayor/regent would consider the recommendation of the Department of Religion, the plans for the proposal, and "local conditions", including the opinion of local religious leaders.

China regulates the construction of religious statues by the Religious Affairs Regulations 2017. Permission must be obtained from the religious affairs department under the State Council. In Bahrain the construction of places of worship requires approvals from national and municipal entities. Egypt's Church Construction Law (Law No. 80 of 2016) creates a formal process for the approval of building of a church.

In fact, there was an attempt in 1973 in Sri Lanka to regulate the construction and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place of public religious

worship. A Bill titled the "Places and Objects of Worship Bill" was placed on the agenda of the National State Assembly on 2nd May 1973. It sought to prohibit the construction and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place of public religious worship except under the authority of a licence issued by the Director General of Cultural Affairs and to provide for matters relating to the grant or refusal of applications for such licences.

The Bill was challenged before the Constitutional Court on several grounds. However the Constitutional Court held that none of the provisions of the Bill are inconsistent with the provisions of the 1972 Constitution. The determination of the Constitutional Court is found at Appendix viii. The Bill was however defeated in the National State Assembly by 14 votes to 3 by the minority opposition through a tactical device which caught the Government of the day unprepared.

The COI is of the view that it is important that the construction of and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place of public religious worship is regulated and proposes the enactment of a law similar to the Bill titled the "Places and Objects of Worship Bill" which was placed on the agenda of the National State Assembly on 2nd May 1973. The COI is of the view that the local authorities or Provincial Councils should not have a role to play in the regulation of construction of and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place of public religious worship. The regulatory body must be a central governmental body.

Chapter 29

FETO

The COI conducted an investigation and inquiry into the FETO movement in Sri Lanka as part of its work in order to ascertain whether Zaharan's group had been associated with or supported by any foreign personnel, institution, organization or country.

According to the Embassy of Turkey in Colombo[86], FETO also known as the Gulen Movement, is a terrorist organization. Its leader is Fetullah Gulen who initially built the ideological foundation of his movement on the teachings of Said Nursi, an Islamic scholar, but later parted ways. Subsequent to a trial that charged him with attempting to topple the secular state in 1999, he left Turkey and moved to the USA. The Organization of Islamic Cooperation and the Cooperation Council for the Arab States of the Gulf had passed resolutions against FETO. The Turkish Government accuses a clandestine faction led by FETO of attempting to stage a coup in Turkey on 15th July 2016 to overthrow the democratically elected government, the President and the constitutional order of Turkey.[87]

[86] Exhibit C-273(B) Note 1
[87] Exhibit C-273(B) Note 2

However there are other commentators and experts who claim that FETO is not a terrorist organization. Gulen himself has highlighted his agreement with the secular modernizing vision of Mustapha Kemal Ataturk, founder of the Turkish Republic in order to separate himself and his movement from more radical Muslim groups in Turkey.[88] The COI heard the testimony of a Sri Lankan expert on FETO, Prof. S.K. Hettiarachchi who testified that FETO was not a terrorist organization.

The COI makes does not make any findings on whether FETO is in fact a terrorist organization. However, the COI is concerned about the attitude of the then Government in relation to an organization which was claimed to be a terrorist organization by a foreign nation. The COI is of the view that it is reflective of the overall attitude of the Government towards national security.

The concerns of FETO and its presence in Sri Lanka was raised for the first time by the Turkish Foreign Minister Mevlut Cavusoglu during his bilateral meetings with H.E. the President and the Minister of Foreign Affairs in June 2016 in Colombo. The Sri Lankan delegation was informed that the Turkey will in due course submit documents on this issue through the MOFA through diplomatic channels.

It appears that the Secretary to the MOFA was informed of this issue[89] so that it can be raised at the Security Council meeting on 4th August 2016. It appears that this issue was in fact discussed at that meeting although the details of the actions taken thereon are unclear.

[88] Muslim Networks and Movements in Western Europe, September 2010, p. 18, Pew Forum on Religion & Public Life
[89] Exhibit KS-1

H.E. the Ambassador of Turkey resident in Colombo formally submitted a Note Varbale dated 5th August 2016[90] to the MOFA containing a detailed report on FETO[91], the failed coup attempt and the alleged involvement of FETO[92] and information about the presence of several individuals aligned to FETO and their activities in Sri Lanka. A request was made from the MOFA to forward the request of the Turkish Government to the relevant Sri Lankan authorities to freeze the activities of the FETO related organizations in Sri Lanka, and deport the members of the said organizations from Sri Lanka.

The Secretary MOFA by letter dated 24th August 2016[93] wrote to the Secretary, Ministry of Law and Order and Southern Development and the Secretary, Ministry of Defense requested for observations on the alleged links between the organizations and individuals identified by the Embassy of Turkey. The Secretary, Ministry of Law and Order and Southern Development by letter dated 30th August 2016[94] requested the IGP for his observations on the alleged links between the organizations and individuals identified by the Embassy of Turkey to enable the GOSL to consider the submission made by the Government of Turkey. The IGP had by letter dated 6th September 2016 referred it to the Director, SIS.[95] However there are no records at the IGP office of any reply received thereto.

[90] Exhibit C-273 (B)
[91] Exhibit C-273(B) Note 1
[92] Exhibit C-273(B) Note 2
[93] Exhibit C-273
[94] Exhibit C-274
[95] Exhibit C-275(A)

However, the Director, SIS by letter dated 6th December 2016[96] informed the Secretary to the MOD that investigations carried out by the SIS locally revealed that there are organizations functioning in Sri Lanka funded by FETO and that Turkish officials are of the view that the income earned by those organizations is used for terrorism. The SIS Director sought the opinion of the MOFA regarding the legality of the Turkish request for assistance to curb the activities of the FETO. The MOD forwarded this request to the MOFA on 9th December 2016.[97] When this matter was raised the Secretary to the MOFA had indicated that the issue was discussed at the Security Council meeting on 4th August 2016 and that it is very important that Sri Lanka is provided with hard evidence as to what terrorist organizations are being funded with revenue earned by FETO affiliated businesses in Sri Lanka and to put on hold further action until such evidence is submitted.

The concerns of the Turkish Government of the presence of FETO linked persons and organizations in Sri Lanka were once again raised by Ambassador Fazil Carman, Director General for Bilateral Political Affairs (South Asia) during a meeting with the Ambassador of Sri Lanka in Turkey on 19th January 2017.[98] It was conveyed that the Turkish Government expects friendly countries to take actions against the entities with alleged links with FETO.

During a bilateral meeting between the Minister of Foreign Affairs and the Ambassador of Turkey in Sri Lanka on 22nd June 2017[99] in Colombo and at a discussion between Hon. Wasantha Senanayake, State Minister of Foreign Affairs and Turkish Foreign Minister Mevlut Cavusoglu on 4th August 2017 on

[96] Exhibit C-299(A)
[97] Exhibit C-299
[98] Exhibit C-280
[99] Exhibit C-301(A)

the sidelines of the 24th ASEAN Regional Forum in Manila, Philippines the issue of FETO was once again raised. [100]

On 9th October 2017, a meeting[101] was chaired by Tilak Marapana, Minister of Foreign Affairs with Kapila Waidyaratna, Secretary, MOD and Nilantha Jayawardena, Director, SIS to discuss the way forward to address the concerns formally raised by the Government of Turkey regarding alleged FETO associated business, charity and academic activities in Sri Lanka. Prasad Kariyawasam, Secretary, MOFA and the Acting Director General, West Division of the MOFA were also present.

The concerns formally raised by the Government of Turkey through the Turkish Mission in Sri Lanka were discussed. The Secretary, MOFA informed that the Turkish Embassy and the Department of Immigration and Emigration were coordinating on the concerns related to issuance of visas. Accordingly, the expired visas were not being extended or re-issued. He further clarified that Sri Lankan visas could not be denied to Turkish applicants in the absence of hard evidence that they have committed terrorist attacks in Turkey, which would then need to be submitted by the Government of Turkey to the Sri Lankan authorities.

The Director, SIS informed about two senior Cabinet Ministers having business contacts with alleged FETO run businesses. They were Hon. Rishard Bathiudeen, who had the majority involvement, and Hon. Kabir Hashim. The Secretary, MOFA informed that given the sensitive political nature of the issue, it was best left unaddressed. So much so their names were withheld in the minutes of the meeting and that information was obtained by the COI only

[100] Exhibit C-282
[101] Exhibit C-281

through one of the participants at the meeting. This appears to be the last meeting held on the FETO issue before the Easter attack on 21st April 2019. Both the previous Ministers, Rishard Bathiudeen and Hon. Kabir Hashim during their testimony denied any connection with business establishments of FETO in Sri Lanka.

It appears that at some stage there was an informal administrative arrangement where the Turkish Embassy was working with the Department of Immigration and Emigration and SIS on screening visa applications of Turkish nationals coming to Sri Lanka.

In February 2019 the Turkish Government once again raised the issue of FETO in Sri Lanka with the Ambassador of Sri Lanka to Turkey.[102] It was informed that the Turkish Embassy in Colombo had provided a list of individuals and details of their revoked passports to the Sri Lankan authorities (SIS on 15th March 2018 and Secretary to the MOD on 7th January 2019) and that the Turkish authorities were dismayed that Turkish nationals who are connected with FETO are continuously receiving extension of visas by the Sri Lankan authorities even after their passports were cancelled by Turkey.

Nothing further was done by the Government on the FETO issue until the Easter attacks when it was highlighted in the media.

The Secretary to the MOFA by letter dated 22nd July 2019[103] wrote to the Controller General of Immigration and Emigration with a list of names and Turkish passport numbers received from the Embassy of Turkey and inquired whether those persons have left the country. The Controller General by letter

[102] Exhibit C-277
[103] Exhibit C-283 and Exhibit C-285(A)

dated 2nd August 2019[104] provided the Secretary to the MOFA with the details in terms of which out of the 50 persons named there were no records of 5 persons while one person was shown as being out of the country for one passport number while for the other passport number there was no records. Only one person was said to be in the country.

The COI had the benefit of hearing the testimony of Keerthi Wijeratne Elapatha on this issue. He is the Deputy Controller (VISA) of Department of Immigration and Emigration who has morefully testified on visa procedure. The witness stated that the Department of Immigration and Emigration has established Electronic Travel Authorization (hereinafter referred to as the ETA) for issuing visa for foreigners. The said Department has introduced three methods for obtaining Electronic Travel Authorization.

Under the first method a foreigner may log into www.eta.gov.lk and apply for visa online. Secondly the foreigner may apply for visa through the Sri Lankan Embassy of his country. Thirdly an agent of such foreigner may apply visa from the Department of Immigration and Emigration. The witness further testified that the ETA is open for all countries and the visitors from Maldives, Seychelles and Singapore could obtain visa on arrival without entering data to ETA. The witness stated however that data of visitors who come under 'visa on arrival' is entered in the Border Control System. The witness further testified that the said ETA and Border Control System are two separate systems which are, however, connected to each other. ETA is used to issue visa and Border Control System, for confirming the Immigration and Emigration data of visitors.

The witness stated that when a person arrives to Sri Lanka he has to submit his passport to the Immigration and Emigration counter. Such passport is then

[104] Exhibit C-284

checked by a 'watch list' internally maintained at the I & E Department. Such watch list consists of information provided by government institutions and the general public. In addition to the said watch list there is a black list. This list is prepared by using the information provided by law enforcement authorities such as SIS, CID, TID, SIU etc. There is also a prosecution list which consists of the court orders regarding immigration and emigration. In addition to those lists there is also an Interpol list and the UN sanction list.

The witness stated that there are ten countries where visitors cannot apply for visa through ETA. They are Egypt, Syria, Nigeria, Afghanistan, Pakistan, Ivory Coast, Ghana, Cameron, North Korea and Myanmar. The witness further stated that a person from Syria cannot obtain visa through ETA or by visiting to the Embassy. An agent of such person has to personally visit the principal office of I & E Department and submit application in order to obtain visa. The witness however stated that when a Sri Lankan who has obtained a valid visa departs to Syria, presently there is no procedure to inquire into the purpose of such visit.

The witness stated that there are two types of visas that can be obtained under ETA namely tourist visas and business visas. The visitors who intend to participate in religious events may apply for visa under business category. The visa application, however, does not contain information as to which party sponsors or facilitates such visitor during his visit in Sri Lanka.

When the witness was shown the document marked C 335 which contained 158 names of Turkish persons he stated that except for 13 persons, all other Turkish persons (145 in number) had stayed in Sri Lanka under a valid visa.

There were no records for said 13 persons in the Boarder Control System. Around 20 persons out of said 145 persons had arrived under tourist visa category and the rest had been under residence visa category.

Attention of the witness was drawn to several names in the said list marked C 335 and invited him to give his remarks as to whether such person is still in Sri Lanka or has left the country. The answers given by the witness are summarized and entered in the table given below.

Serial No. in the list	Remark
14	He is still staying in the country
29	-do-
44	-do-
53	-do-
63	-do-
73	He has left the country
81	He is still staying in the country
88	-do-
95	-do-
98	-do-
103	-do-
106	-do-
118	-do-
128	-do-
138	-do-

When this evidence is compared with the contents of the letter dated 2nd August 2019[105] of Controller General, a serious question arises on the veracity of the data base of the department of Immigration and Emigration. This matter needs to be examined expeditiously.

[105] Exhibit C-284

The factual position outlined above forms part of the evidence before the COI obtained through oral and documentary evidence.

President Secretary's Copy

Chapter 30

Conclusions

COI sets out its conclusions in regard to the different parts of its mandate as follows:

1. The COI identifies on the available evidence that Zaharan, Rilwan, Shaini, Ilham, Inshaf, Jameel, Hasthun, Muath, Azad, Mubarak, Naufer, Milhan, Sadeeq and others as persons who are directly connected with the terrorist acts referred to in the Mandate. The profiles of some of them are at Chapter 16. Organizations such as the SLJI, SLJISM and thowheed groups are indirectly connected in as much the thowheed (Wahhabis) ideology is the foundation upon which Islam extremism operates.

2. The COI concludes on the available evidence that the officers and authorities identified in Chapter 19 are responsible for failure to pre-determine that a terrorist and extremist activities of this nature would take place within the country and to ascertain matters incidental to it and who failed or neglected to take action according to law and not taking proper actions in this regard.

President Secretary's Copy

3. The COI concludes on the available evidence that the officers and authorities identified in Chapters 19 and 20 are responsible for

failure to prevent the terrorist attacks that took place on 21st April 2019 and failed to perform their duties and did not take proper action.

4. The COI concludes on the available evidence that the persons identified in Chapter 27 are connected with public protests, acts of sabotage, causing damages to properties and persons and thereby causing public unrest, after the attack took place on 21st April, 2019.

5. The COI concludes on the available evidence that persons and organizations identified in Chapters 18, 22 and 25 have aided and abet actions which caused racial and religious actions which caused racial and religious disturbances or give support for such acts within the country which created public unrest and which disturbed social order and disrupted the social integrity and caused racial disturbances.

6. The COI concludes on the available evidence that the primary causes for the events of 21st April 2019 are the Wahhabis ideology and groups such as the thowheed groups, SLJI and SLJISM. Internationally the activities of the IS and locally the activities of extremist groups such as BBS contributed to the events.

7. The COI concludes on the available evidence that that the events of 21st April 2019 were funded mainly by the Ibrahim brothers Inshaf

and Ilham. The COI recommends the payment of compensation and provision of welfare measures for the affected parties as set out in Chapters 26 and 31. The recommendations of the COI to ensure the safety of the public and to prevent the recurrence of such incidents are contained in Chapters 23 and 31.

8. The COI identifies the matters pertaining to the Copper Factory set out in Chapter 22 under Mr. Rishard Bathiudeen as a matter to be referred to the Commission to Investigate Allegations of Bribery or Corruption.

9. The COI recommends that Your Excellency the President transmits a complete set of the Report to the Attorney General to consider institution of criminal proceedings against persons alleged to have committed the said offences.

10. The recommendations of the COI is set out in Chapter 31.

President's Secretary's Copy

Chapter 31

Recommendations

The mandate requires the COI to make recommendations on the following matters:

(i) To Rehabilitate or assist in any other manner the persons affected by the Easter Sunday attacks. The recommendations of the COI on this area are set out in Chapter 26.

(ii) To ensure the safety of the public.

(iii) To prevent the recurrence of such incidents.

(iv) Preventing the occurrence of such offences and acts of wrong doing in the future.

(v) Prevent the possible damage to national security and national unity by such acts of terrorism and extremism.

The COI sets out its recommendations on the above matters. It has been done after identifying several sub-sectors to which the recommendations apply and has been arranged in alphabetical order.

Administration of Government

1. The absence of three important components in the administration of government plays a pivotal role in the radicalization process, namely absence of good governance, absence of effective judicial systems and absence of platforms to be heard. It is important that effective and pragmatic steps be taken to address all shortcomings in these three areas. Professor Rohan Gunaratne, an expert in international terrorism, testified that lack of good governance, institutional failures and political instability provides a fertile ground for terrorist to operate. From 2016 onwards, Zaharan spoke on the lack of good governance and the judicial system.

Air Space

1. The State must fully regulate the air space including the use of drone cameras. Zaharan's group purchased a drone camera around 2018.

All Ceylon Jamiyyathul Ulama

1. Amend Act No. 51 of 2000 to ensure that the Sufi Muslim community is adequately represented in the All Ceylon Jamiyyathul Ulama structure. The COI heard evidence that this community is not adequately represented in this organization.

Ancient Religious Monuments

1. All ancient religious monuments of all denomination must be protected. A special division of the Police to carry out the task should be created at national and provincial level.

Assistance to and Protection of Victims of Crime and Witnesses Act No. 4/ 2015

1. Amendment should be made to the Act to make it possible for evidence to be obtained from overseas of a witness without him being present at a Sri Lankan mission or an entity. This is since there are countries where there is no Sri Lankan mission or an entity as well as the possibility that the person may be in custody in a foreign country the law of which does not provide for him being moved out of the detention. For example there may be a terror suspect or convict overseas who may testify to the training of a Sri Lankan terror suspect.

President's Secretary's Copy

Attorney General's Department

1. Establish a dedicated unit of prosecutors to handle terrorist matters. Training must be provided to enhance their capabilities. The team should not be assigned other tasks other than prosecuting and assisting in the investigations of terrorist cases.
2. Implement a quarterly file review system in all sections of the department. The COI observed that the file handed over by the TID in 2017 was not subject to any type of file review until the Easter Sunday attack.
3. Implement a monthly meeting where the dedicated team and officers of the TID and other related agencies have a review meeting.

Commendations

1. Police Sergeant 83225 Suminda Nihal Weerasinghe to be commended for bravery shown in dealing with the incident at Saindamarudu on 26th April 2019. Upon being informed by villagers of the presence of an unknown group in the village, he took the initiative to alert senior officers and then proceeds towards the house when he was shot at.

Companies

1. The process of registration of companies in the Companies Act must be re- scrutinized and necessary amendments made. A balance must be struck between ease of doing business and national security concerns.
2. There must be due supervision of notifications relating to annual reports of companies.
3. Religious schools should not be registered under the Companies Act. They must be brought within a regime regulating all types of religious schools.

Compensation

7. Government to pay compensation of Rs. 2 million for each deceased person and above Rs. 5,00,000/= up to actual expenses for all injured persons in the Easter Sunday attack. This formula should take into consideration any compensation already paid.
8. According to REPIA records, compensation has been paid for the deaths of 220 persons. However according to the evidence 271 deaths occurred due to the several incidents on 21st April 2019. The COI recommends that the Government pay compensation for the balance 51 deaths as well.
9. Act No. 34 of 2018 of the Office For Reparations has provisions to request funds for life long welfare for the most needy persons among the victims under a project proposal submitted to the cabinet for approval. Hence it is recommended that a comprehensive proposal be submitted by the Office for Reparations to the Line Ministry for obtaining Cabinet Approval for further funding. It is suggested that this cabinet paper cover requirements proposed by SETH SARANA as set out in Chapter 26.
10. A welfare project for the victims of Easter Sunday terrorist attack must be formulated and implemented to continue for a period of 5 years by the allocation of funds on a staggered basis annually from the Treasury. Further details of the payment of compensation and welfare measures are at Chapter 26.
5. Ensure that the people who should have been compensated for the events that took place after 26th April 2019 are paid. The evidence is Mohammad Naheem Mohammad Musafer from the Katana Divisional Secretariat area was not paid.

6. On 9th May 2019, Mohomed Razik Mohomed Thaslin was shot at close quarters in his house at Danagama, Mawanella while he was sleeping with his wife. He played an important role in the recovery of explosives from Wanathavilluwa on 16th January 2019 and the apprehending of suspects associated with the breaking of Buddha statues. He is currently receiving treatment but needs further treatment in UK. It is recommended that the State provided monetary assistance for this treatment as well as providing security to him.

7. Government to make a reward payment to the next of kin of Late Mr. Ramesh Raju of the Zion Church Batticaloa for his bravery that led to a minimizing of the death toll.

Confiscation

1. In order to generate the funds required for the proposals mentioned in Chapter 26 enabling legislation should be enacted to confiscate all properties, including business properties, of the suicide bombers. Such legislation may have to be retrospective in operation to some extent since the COI heard that some of the suicide bombers had transferred their properties after deciding on the suicide attacks.

Construction of Places of Religious Worship

1. The construction of and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place of public religious worship should be regulated. A law similar to the Bill titled the "Places and Objects of Worship Bill" which was placed on the agenda of the National State Assembly on 2nd May 1973 should be enacted (Appendix VIII). The local authorities or Provincial Councils should not have a role to play in the regulation of construction of and establishment of any building, statue or other object or the conversion

of any building for the purpose of being used as a place of public religious worship. The regulatory body must be a central governmental body. This aspect has been dealt in detail in Chapter 28.

Counter Terrorism Act

1. A new law should be enacted to counter terrorism. The proposals for the COI are found at Chapter 23.

Convention on Suppression of Terrorist Financing Act

1. Strengthen the offence relating to financing of terrorism in line with international recommendations. The offence once strengthened would capture the financing of the travel of individuals, who travel to a foreign State for preparation, planning or preparation of or participation in terrorist acts or the providing or receiving of terrorist training.
2. Steps to be taken to expedite the pending investigations relating to terrorism and terrorist financing by providing human and other resources. Since the enactment in 2005, no conviction has been done under the Act. The terrorist financing case filed against Tamil Rehabilitation Organization is still pending in court since 2009.

Criminal Investigations

1. A comprehensive investigation should be conducted into the involvement of Mohomad Nafeez Mohomad Nafrith and Mohomad Nafeez Mohomad Navith with Zaharan and his group is commenced immediately. As part of it, investigations must be made of their involvement with other thowheed groups including the SLJISM. The investigation should also examine the circumstances under which their conditional release was made.

President's Secretariat Copy

2. Ensure that two or more investigating agencies do not investigate the same matter unless specifically authorized. The COI observed that at one point both the CID and TID were investigating Zaharan which led to the CID requesting the TID to withdraw from the investigations. There must be coordination between investigating agencies.

3. Legal provisions should be specifically enacted preventing any politician including Member of Parliament, Provincial Council or Local Authority from contacting any Police Officer in relation to any ongoing criminal investigations. This recommendation is been made in view of the evidence before the COI of interventions made by Mr. Rishard Bathiudeen and Mr. Azad Salley into the investigations into suspect Ihsan Meinudeen and the Mawanella incident respectively.

4. Provide for the arrest without a warrant of any person suspected to be involved in creating religious or ethnic disharmony.

5. Amend the law to provide for the issuance of a search warrant to search any building or house where a terrorist suspect is hiding whe:. a warrant for his arrest is issued by a magistrate. Section 56A of the Counter Terrorism Boarder Security Act 2019 of UK is instructive.

Criminal Proceedings

1. Establish dedicated High Courts to hear and conclude all criminal prosecutions in relation to the Easter Sunday attacks as well as terrorist related cases. The judges should be given special protection as well as training.

2. The trials to be taken up on a day to day basis.

3. Attorney General to consider instituting criminal proceedings against Rasheed Hajjul Akbar for conspiring to establish an Islamic State in Sri Lanka.

4. Attorney General to consider expeditiously whether criminal charges can be filed against Razik Rafideen aka Abdul Razik. On 6th May 2014, he equated the noble triple gem to three gem stones and questioned whether anyone can get relief by praying to such gemstones. He went on to state that Lord Buddha has consumed human flesh. Criminal proceedings have been instituted against him in relation to this statement in M.C. Colombo B 7467/1/14 but no charges have yet been filed. The COI was told that the file had been sent to the Attorney General over three years ago but no advice had been tendered.

5. Attorney General to consider whether criminal proceedings can be instituted against Rev. Galagoda Aththe Gnansara thero in terms of International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 for the speeches made on 17th February 2013 at Maharagama[106] and at Aluthgama on the day after the poya day in June 2014.[107]

[106] Exhibit C 636 CD tape containing speech
[107] Exhibit C 698 CD tape containing speech

Cyberspace

1. The modern terrorist and extremist threat has a strong presence in cyberspace. Regulate the cyberspace including social media to ensure that extremist religious ideologies such as IS, Wahabism and Thawheed ideologies are not accessible to Sri Lankans.

2. Those that operate extremist religious websites and blog spots in cyberspace should be immediately investigated, charged, prosecuted, tried and sentenced.

3. Adopt effective counter measures against cyber terrorism.

Daham Pasal/Sunday School/Ahadiya and Thakkiya Schools

1. All Daham Pasal, Sunday School and Ahadiya and Thakkiya Schools must be regulated by the Government under one body.

Defence

1. The Ministry of Defence should always be under the President.

2. Constitutional provisions should be enacted to make it mandatory for the President to appoint an acting Minister of Defence if he or she is travelling overseas. The acting Minister should have all the power the President possessed as Minister of Defence. The Acting Minister should have the power to summon the National Security Council and give directions.

De-Radicalisation Program

1. Implement an efficacious rehabilitation process to de-radicalize religious extremists since the enhancement of security and other measures aimed at countering radicalization is not sufficient by itself to counter the threat posed by Islam and other religious radicals.

2. In doing so, a clear understanding must be made of the differences in the processes and concepts of rehabilitation and disengagement. It is important that the program goes beyond disengagement and seeks to achieve de-radicalization.

3. There are certain reservations that de-radicalization is not possible where it involves religious belief. However, it is important that a program of rehabilitation be implemented immediately aimed at de-radicalization of all forms of religious extremism in Sri Lanka.

4. The program implemented in Singapore with some modifications to suit local conditions is best suited to address religious extremism in Sri Lanka.

5. Singapore's program had several different but connected components consisting of psychological rehabilitation, religious rehabilitation, social rehabilitation and community involvement and family support which in our view is an important part as it is long lasting and sustainable. It is recommended that educational rehabilitation, vocational rehabilitation and recreational rehabilitation also be added as components.

6. Parallel to a rehabilitation process, there must be a clear and unequivocal message given to society that religious extremism and terrorism are grave offences and punishable by law. Therefore, the most

criminally culpable persons must be brought before courts of law and prosecuted. These convicted offenders must also be part of the rehabilitation program.

7. The Government must also show that it is fully committed to the rehabilitation process as the program will not be successful unless the community truly believes that the Government is desirous of rehabilitating religious extremists.

8. In countering Islamic extremism, special focus must be given to engaging with the Islamic community including religious leaders and the civil society to take leadership to build religious harmony and identify youth who are radicalized.

9. Establish a structure where parents and relatives of possible recruits could inform the authorities of possible radicalization of relative on an anonymous basis and subject the person to de-radicalization while keeping in contact. The evidence is that a mother attempted to do this in 2017 which was communicated even to the Minister of Law and Order to no avail. The son was arrested after the Easter Sunday attacks.

10. Enact legal provisions to make it mandatory for persons convicted of terrorism to undergo a rehabilitation program while serving the sentence.

Education

1. Setting up of national and provincial schools as well as international schools in the future should be liberated from the classification of Buddhist, Christian, Hindu or Islam religious divisions. All schools should have a student population which is representative of the religious composition of the country.

2. All existing schools should be liberated from the classification of Buddhist, Christian, Hindu or Islam religious divisions and a mixed school system should be established at the national and provincial level as well as international schools where students of all religions interact. This should be done over a period of time to allow the schools to adjust to the change.

3. Students in all schools, irrespective of their religion, should be taught a new subject "Religious Education" where the basics of Buddhism, Christianity, Hinduism and Islam from Grade 1 up to Grade 10 on a compulsory basis. This can be supplemented by the Government establishing model religious villages.

4. All religious educational books published for the use of students in national and provincial schools as well as international schools should be scrutinized to ascertain whether any extremist or terrorist literature is included directly or indirectly. For the reasons more fully explained in Chapter 4, Sufi clerics should form part of the group securitizing Islamic religious educational books.

5. An immediate re-assessment of the contents of Islamic educational books in Sri Lanka must be done with a view to identifying and removing

extremist teachings and references to extremist writers. It is also recommended to do an immediate evaluation of the contents of foreign books on Islam sold in Sri Lanka in order to identify extremist content. Members of the Sufi clerical order must be part of both these processes.

6. Religious reconciliation should be included in the school curriculum.

7. It must be mandatory for all children aged 5 years to 18 years in the country to be educated in "recognized government or private educational institutions". The children should not be taught only at home as this leads to exclusivism. The COI heard of evidence that some of the suicide bombers educated their children at home without sending them to school.

8. Education up to grade 13 should be made compulsory by law irrespective of their gender.

9. Buddhist, Christian, Hindu and Islam culture, literature, folk arts, music, drama needs to be introduced as a new subject for all children, irrespective of their religious belief.

10. All educational publications should be reviewed by a regulatory body to identify and removal of any extremist or terrorist content.

11. A database to be created of all foreigners arriving in Sri Lanka for education purposes as well as all Sri Lankans going abroad for educational purposes. The recommendation is made since it was in evidence that several foreigners came to Sri Lanka and attended entities identified as extremist as well as played a part in spreading extremism and the same happened to some Sri Lankans who went abroad.

12. Closely monitor the teaching of all religions in private schools to

eliminate the teaching of extremist and terrorist content.

Electoral System

1. A stable government is essential to fight terrorism. The COI heard evidence that Zaharan's group thought an attack in Sri Lanka is possible due to the weak government. An electoral system which gives a working majority to a party that obtains more than 50% of the votes at any general election must be adopted early while ensuring that the minority groups get due representation. Such provisions can be combined with the requirement for political parties to have a particular number of candidates from minority groups from the area where the nomination paper is submitted and the prohibition of a Member of Parliament joining another party.

2. Legal provision must be made to make it compulsory for every voter to exercise his franchise. Failure to do so must be subject to a fine. The exercise of franchise should be construed to include the right of a voter to spoil his or her vote. This recommendation is made as it was the evidence that members of Zaharan's group did not take part in the electoral process and prevented the family members from doing so. Adoption of such provisions can assist in the identification of Islamic extremists.

Explosives and Weapons

1. Strict regulation of the sale of material which can be used for explosives such as gelignite, detonators and nitric acid must be done. It must extend to monitoring after sale to ensure that they were used for the purpose for which it was purchased. Where there is any suspicion

that the explosives may not have been used properly, legal provisions should be made to provide for GIS audit by auditors and the Auditor-General should be empowered to issue it.

2. Sri Lankan waters and airports should be fully secured to prevent smuggling of explosives and weapons. The VIP entrance at all airports should also be screened due to the large funding the IS possess and since upper and upper middle class segments of the society is vulnerable for recruitment as evidenced from the Easter Sunday attacks.

Exchange Control Act

1. It was in evidence that some of the amendments brought to the Act in 2017 did not provide for some of the investigations that were possible prior to the amendment. A Committee should be appointed to propose suitable amendments to the Act.

Extradition Law

1. To strengthen the Extradition Laws to extradite terrorist suspects who are in foreign countries for action be filed in Sri Lanka.

Financial System

1. Introduce licensing/registration mechanism for informal money or value transfer service providers (hawala, hundial) and require them to identify their customers and retain records relating to transactions. Investigations have revealed that some funds to Zaharan's group were channeled through the hawala method.

2. Introduce licensing/registration mechanism for Virtual Asset Service Providers (crypto currency) and require them to identify their

customers and retain records relating to transactions. The investigations into an individual having links to one of the suicide bombers revealed that she was dealing in bit-coins.

3. Presently there is no mechanism to monitor whether money transmitted from abroad to a person, entity or organization in Sri Lanka is actually used for the stated purpose. This has serious implications on terrorist funding. Immediate steps to be taken to address this issue.

Financial Transactions Reporting Act

1. Enable the Financial Intelligence Unit to have access to data bases such as the Department for Registrations of Persons, Registrar of Motor Vehicles, Department of Immigration and Emigration, Land Registry, Criminal Records Division, Interpol etc.
2. Strengthen section 15(2) and 15(3) to reflect selective transactions to be suspended on an ex-parte basis.
3. Bring more clarity to the establishment of the Financial Intelligence Unit and the functions, role and the powers of its Director.
4. Strengthen the Cash Transaction Report/Electronic Fund Transfer analysis by the Financial Intelligence Unit by providing for initiation of Suspicious Transaction Reports by the Unit.
5. All commercial bank branches to be required to have a designated officer to liase with the Financial Intelligence Unit.

Foreigners

1. All foreigners should be put on notice that no religious preaching, discussions or seminars can be undertaken by them unless specifically authorized as part of the visa process. For this purpose, a separate class of visas to be created to be issued to foreigners who wish to conduct

religious preaching, discussions or seminars.

Foreign Funding

1. Regulate the inflow of foreign funding to all religious organizations.

Foreign Religious Preachers

1. Foreign religious preachers should be permitted to enter Sri Lanka after strict scrutiny by intelligence agencies and with the prior approval of the Ministry of Education and the Ministry of Defence. The religious books and videos brought in should be provided in advance to the authorities for scrutiny.

2. If any foreign religious preacher is banned in any other country, this fact must be taken into consideration in deciding whether he should be permitted to enter the country.

3. Prior permission must be obtained for the contents of the sermon. The mission and the agenda of the foreign religious preachers should be monitored and the speech or sermon of the preacher should be able recorded to enable the authorities to take action against him, if he violates religious harmony.

4. Life stories and speeches of extremist religious preachers and religious preachers proscribed in other countries should not be published in school text books, any other magazines or pictures, by any entity operating in Sri Lanka.

Foreign Terrorist Fighters

1. It is important to take a count of the exact number of foreign fighters who has returned to Sri Lanka from Syria and other places. Immigration should work closely with relevant authorities to provide the necessary information.

Foreign Workers

1. No foreigner should be allowed to work in Sri Lanka without undergoing a security clearance.

Hospital Admission

1. At the earliest convenient time, the identity of the patient admitted to governmental and private hospitals should be established through the production of the National Identity Card, Passport or the Driving License. Rilwan was admitted to the National Hospital Colombo in late August 2018 after suffering injuries due to an explosion which occurred while he was testing explosives. He was admitted under a false name and avoided being referred to a Judicial Medical Officer.

2. The procedure in relation to the work of Police posts at all governmental hospitals should be reviewed. Procedures should be implemented to ensure that a Medico-Legal Examination Form is issued to all patients as recommended by a Medical Officer and the patient be produced to a Judicial Medical Officer for examination. The Judicial Medical Officer should after examination issue a Medico-Legal Report and the Police should be instructed to conduct further investigations based on the findings of the Judicial Medical Officer.

President's Secretary's Copy

Hotels, Motels, Guest Houses and other Lodgings

1. Strict controls should be placed on the registration procedures at hotels, motels, guest houses and other lodgings with a view to obtaining complete and true information of the guests. It is in evidence that some of the suicide bombers provided false information to hotels.

2. The registration records of guests at hotels, motels, guest houses and other lodgings must be preserved for a period of three years so that it is available for any future criminal investigation.

3. The evidence indicated that most hotels do not like the presence of the Police within the premises. In view of the ideology of the IS of targeting foreigners, it is imperative that a security system is implemented to facilitate coordination between law enforcement authorities and hotel security.

Institute of National Security Studies Sri Lanka

1. This institute should play a role to analyze and collect data from security research reports from other think tanks and feed into the intelligence.

2. An expert on terrorism and extremism should be appointed to head the institute and the analysis capabilities should be enhanced.

Internet

1. To regulate action together with internet providers to prevent publicity given over internet by extremist and terrorist. To suspend operation of websites which are spreading such extremist and terrorist ideology. Necessary laws should be enacted to validate such preventive action.

Islamic Religious Texts

1. There should be one Translated Holy Quran in Sinhala, Tamil and English which is published by the Ministry of Religious Affairs. It could be acceptable for all Muslims to avoid wrong interpretations. After this common edition is compiled, all the other privately translated versions of Holy Quran should not be permitted to use by the general public. Several Muslim religious scholars testified that Zaharan was misinterpreting the Holy Quran using different texts.
2. *Kitab At-Tauhid* by Muhammad bin Abdul Wahhab to be proscribed as it is used by Tawheed groups to spread wahhabism.
3. The book titled "Does Al Quran Encourage Violence" by Ustad M.A.M. Mansoor (Nallemi) published by Mishkath Research Institute (First publication, 2019 September) should be made compulsory to be used in the teaching of the holy Quran to Muslim children in the country.

Madrasah Education

1. All madrasahs (quran, hifl quran and Arabic colleges) must be governed by an appropriate legal framework and regulated closely by a statutory authority. The Madrasah Education Ordinance No. IX of 1978 of Bangladesh found at Appendix VII may be used as a guide to develop an appropriate framework. No madrasah should function in the country without becoming part of this regulatory structure.

2. All registered and unregistered madrasahs must be brought under the regulatory structure. A rationalization scheme should be established considering the Muslim population in each district and develop a ratio considering the population or consider the entire Muslim population.

3. To maintain the certain/possible ratio of medium of instruction of the madrasahs throughout the country giving prominence to Sinhala as well as Tamil.

4. There must be a standard student admission criteria and it is recommended to have the G.C.E. Ordinary Level qualification as the admission criteria.

5. Both national languages along with English must be taught at all madrasahs.

6. Any madrasah including an Arabic college which allows Muslim students to follow G.C.E (O.L) and G.C.E (A.L) should be brought under strict government regulation system. They should be monitored by the Ministry of Education. Those schools must follow the government syllabus introduced by the Ministry of Education and the teachers should be appointed through a government mechanism.

7. All Moulavis and teachers at Madrasahs must be registered with the regulatory authority.

8. Provide for the regulation of the flow of funds, both local and foreign, to madrasahs. This must be done in conjunction with enforcing the same legal regime to regulate similar funds to institutions in other religions comparable to madrasas. The law must provide for the monitoring the funds to detect unusual activities.

Migration

1. The refugees from foreign Islamic countries migrating to Sri Lanka have become a significant factor. It is required to go beyond migrant data collection and improve resources to bring in sophisticated data analysis methods.

2. Adequate structures, methods and capacities on regulation of in-ward and out-ward migration and remittances must be adopted.

3. National migration and immigration policies must take into consideration countering of international terrorism.

4. Special attention must be given to migration and remittances data to protect national borders from international threats.

Ministry for Religious Affairs

1. There should be only one ministry for all religious affairs. There can be different departments for each religion but they must be under one Ministry. The Constitution must provide that this Ministry must be with the President.

Mobile Phones

1. It appears that there is a possibility of taking normal calls within the country by hiding the EMI number and not getting registered in the Call Detect Registration as well has not disclosing the cell location. Immediate steps must be taken to ensure that all calls taken within Sri Lanka can be identified later if required for any criminal investigation.

2. Issue of mobile phone connections must be tightly regulated. The number of connections for an individual must be limited. The full details of the user must be obtained at the time of registration. It is in evidence that Zaharan and his group was able to purchase a large number of connections in the Eastern province without providing the identity details.

Money Laundering

1. Enact amendments to the Prevention of Money Laundering Act to
   a. Strengthen freezing and confiscation measures under the Act for criminal assets seized during investigations and to provide for a mechanism for managing and/or disposing of criminal assets, funds, property frozen, seized and confiscated.
   b. Strengthen enabling provisions such as issuing of regulations by the Minister to deal with the criminal funds and direct Police to take necessary steps.
   c. Introduce provisions for non-conviction based forfeiture.
   d. Provide training on Anti-Money Laundering and Countering the Financing of Terrorism to stakeholders.

National Identity Card

1. All citizens over the age of 15 should be issued an identity card containing an electronic chip with all the data. This electronic ID must be updated every year. Electronic national ID cards (eID cards) have been introduced in numerous countries worldwide over recent years.

National Intelligence

1. Enact legislation to set up a National Intelligence Agency. The supreme body should be the National Security Council headed by the President. Its members should be the Prime Minister, Secretary to the President, Secretary to the Prime Minister, Secretary Ministry of Finance, Secretary Ministry of Foreign Affairs, Secretary Defence, CDS, Heads of the three armed forces, CNI, IGP, Director SIS, Director DMI, heads of the intelligence agencies of the three armed forces, Director TID, Director CID.

2. At the next tier there must be a Directorate of National Intelligence headed by the CNI functioning under the Ministry of Defense. The Directorate should have their own data base to which all intelligence agencies should have access and at the same time the Directorate of National Intelligence should also have access to all other intelligence data bases. The role of the CNI should be to collect intelligence and information from the various intelligence agencies and to present it to the National Security Council. The duties and functions of the CNI should be specified by law. The Directorate of National Intelligence should have their own staff to analyze the intelligence and information provided by the intelligence agencies. They should consist of a multi-disciplinary team include *psychologists, sociologists*, political scientists and experts in international affairs amongst others.

3. Within the Directorate of National Intelligence there should be a sub-group comprising of representatives from the Ministry of Foreign Affairs, Financial Intelligence Unit, Customs, Departments of Inland Revenue, Immigration and Emigration, Registration of Persons,

Registration of Documents, Land Registry and Non-Governmental Organizations Secretariat. This group will facilitate provision of information.

4. All officers of intelligence services including the Directorate of National Intelligence should acquire language proficiency in Sinhala, Tamil and English as well as working knowledge of the main religions. In addition they should be provided a working knowledge of Arabic.

5. A quick response team to be built within the CNI to act on intelligence that must be acted upon forthwith. The necessary legal authority to arrest and detain must be given by law.

6. A separate and secure line of communication must be established between all intelligence agencies.

7. Formulate guidelines to be followed by intelligence and investigative agencies in maintaining informants. The evidence is that the CID officers kept Anzar, brother-in-law of Zaharan as an informant. He was later arrested for his involvement in the transportation of explosives to Wanathawilluwa. Similarly, the CID officers kept Army Mohideen as an informant even though they were aware that a warrant had been issued against him.

8. Internal security and intelligence performance audit should be carried out to identify the shortcomings and limitations and strengthen internal processes to fight the new types of terrorist groups.

9. The new face of terrorism also requires transnational cooperation among other nations for intelligence sharing. It requires a multi-jurisdictional and multi-pronged approach. However, Sri Lanka must be

cautious not to sign security agreements that could threaten national security and defence.

10. Ensure greater coordination between intelligence agencies.

11. Zaharan's group was aided in their acts due to the relevant intelligence information not been officially exchanged between investigators and intelligence services officers. The investigation officer and intelligence officers were not working with a common purpose. The investigation officers were working with the purpose of bringing the suspect before the law and the intelligence officers were working to completely destroying the terrorist net. Steps must be taken to prevent such occurrences in the future.

12. All people who are released after serving sentences for terrorist related offences should be kept under surveillance for at least five years.

13. Procedures to be implemented to prevent any person acting as a double agent.

National Policies

1. One of the primary causes for the Easter Sunday attacks is the lack of focus and priority given to national security and defence. It is recommended that a national security and defence policy be drafted and adopted. Constitutional provision must be made for recognition of such policy and for its implementation. The party in power should have no control over the priority given to national security and national defence. They should at all times be the first priority of any government.

2. A National Action Plan derived from the National Polices should be prepared and implemented.

National Recognition

1. Senarath Bandara and Shanaka Jayaratne were responsible for the apprehension of one of the attackers of the Mawanella during the act of damaging Buddha statues. This public spirited arrest led to the discovery of the Wanathawilluwa training camp which contained a large quantity of explosives. The damage caused by Zaharan and his group would have been greater if not for this discovery. Senarath Bandara and Shanaka Jayaratne should be given due national recognition including cash rewards.

National Security

1. The concept of "One Country One Law" must be recognized and implemented. This will prevent any exclusivism amongst different communities.
2. Law enforcement agencies to create online databases that could be shared with relevant stakeholders.
3. Link data bases such as Registrar of Persons, Department of Immigration and Emigration, Department of Motor Vehicles to enable law enforcement and intelligence agencies to access vital information without delay.
4. Immediately designate locally identified terrorist organizations/terrorists under UN Regulation No. 1 of 2012 in compliance with UNSCR 1373.
5 Implementation of the balance part of the UNSCR 2178 on Foreign Terrorist Fighters and Countering Violent Extremism.
6. Establish a legal regime to enable the Police to obtain the assistance of the Sri Lanka Army without the need for imposing of emergency under the Public Security Ordinance. This must be narrowly worded to ensure that such assistance can be obtained only in the event of terrorist or extremist activity.
7. Prohibit any person wearing in any public space clothing designed to conceal the face. Similar bans have been enacted in other countries. When France promulgated Law no. 2010-1192 of 11 October 2010, it was challenged in SAS v. France, 2014-III Eur. Ct. H.R. 341 (ECtHR). However, the European Court of Human Rights upheld the ban and held that "the voluntary and systematic concealment of the face is problematic because it is incompatible with the fundamental requirements of 'living together' in French society". When Municipal by-laws enacted a similar ban in Belgium, it was challenged in Dakir v. Belgium, App. No. 4619/12 (EUR. CT. H.R. JULY 11, 2017). However the European Court of Human Rights upheld the ban and held that ban imposed by the consolidated by-laws of the Vesdre police district can be regarded as proportionate to the aim pursued, namely the preservation of the conditions of "living together" as an element of the "protection of the rights and freedoms of others".
8. Creation of a social media platform under the Ministry of Defense to counter propaganda related to religious/ethnic extremism.
9. Awareness programs to be conducted for citizens on counter extremism policies.
10. Identify terrorist and organized criminals and their relationship to one another and take steps to prevent such acts.
11. Steps to be taken to prevent organized criminals drug dealers, arm dealers from travelling out of the country unlawfully.

12. Make it mandatory for all professionals to inform the law enforcement authorities of any financial or property transaction connected to terrorism or any act connected to terrorism to which they are privy to in their professional capacity. Failure to do so should be subject to penal sanctions with a term of imprisonment up to 10 years and a fine up to Rs. One million. This recommendation is made in view of the evidence of a government medical practitioner been privy to the medical treatment given to Rilwan after he suffered blast injuries. The medical practitioner did not reveal any of the details even after the death of Rilwan and his involvement in the Easter Sunday attack became public.

13. Vigilance to be maintained to suspicious mails and reinforced protection of water networks.

14. Establishment of system to control chemical use for bio terrorism. Strengthen of strict control of materials used for terrorism attacks.

15. Encourage women to play active part in the prevent terrorism.

Other Religious Schools

1. All other religious colleges (Buddhist, Christian and Hindu) must also be regulated in the same manner as madrasahs.

2. The curriculum in these religious schools should be regulated by the Government in the same way as proposed for madrasahs.

Passports

1. An investigation should be conducted into every lost passport to eliminate any criminal activity.

Police Department

1. There were serious concerns on the manner in which former IGP Pujith Jayasundera conducted himself in office. It was in evidence that the President wanted to remove him but could not do so in view of the legal regime governing such removal and the lack of support for such removal by the Prime Minister and his party. The procedure to be re-assessed bearing in mind the possibility of the President and Prime Minister being members of two political parties.

2. A separate division should be established at national level under a SDIG to oversee complaints on anti-religious complaints. Each Police Station in the country should have representatives from this division who will inquire into such complaints. They will report to the respective OIC and to the SDIG of this division.

3. The CID and the TID should be under one DIG.

4. The TID functions should be expanded by establishing sub-offices in each Province to enable it to expand its operations.

5. Police investigators should be given training on psychological aspects and in particular psychological interrogation.

6. The detention facilities at the CID and TID must be expanded and modernized.

7. A new Research and Development Unit should be established as part of the Special Branch with all modern facilities, infrastructure, socio technical systems (man/machine) and sufficient funds. International Collaboration is a must for transfer of knowledge and technical knowhow. Intra and inter agency exchange/sharing of information and intelligence to act proactively through online encrypted data exchange system with access control should be established. The Special Branch should continue to remain under the direct control and supervision of the IGP while its activities can be monitored by the CNI as part of the structure proposed. The Special Branch should have an all island presence.

8. There is a need to change the organizational culture, value and ethics in the areas of communication among superior - subordinate and peers. It was the evidence that the use of certain words by seniors to juniors had a demoralizing effect on juniors in the performance of their functions.

9. IGP Pujith Jayasundera placed a minute "F.N.A." on the information he received from Sisira Mendis CNI and sent it to four SDIGs. Such action by a senior public officer cannot be condoned. The Government should give serious consideration to the appropriateness of the use of this term in public administration.

10. The culture in the Police department must be changed. It has been brought to the notice of the COI that several senior police officers' stationed in the same building do not exchange views or talk to one another. Steps should be taken to curtail the competition between the officers for promotions. The need to rise above personal issues and act as one department must be inculcated.

11. Anchoring policing in to respect for rule of law.

12. Improving public perceptions of and interaction with the Police.

13. Improving communication with the public on counter-terrorism.

14. Enhancing Police understanding of communities as a basis to better engage and cooperate with them.

15. Helping to identify and address community safety issues and grievances.

16. Improving relations between the Police and individuals and groups that have been hard to reach or not yet engaged with terrorism.

17. The Police should share as much information as possible with communities to demonstrate their commitments.

18. The Police should share as much information as possible with communities to demonstrate their commitments.

19. Assigning community police team to serve particular areas with dedicated police officers regularly visiting particular communities (Sinhala-Tamil-Muslims)

20. Introduce virtual community policy.

21. Institute mandatory gender training for all supervisors and police officers performing security checks and body searches.

22. Police to provide minorities as far as possible, with information in their own language.

representation of different denominations of religions which must be consulted by the President/Prime Minister or designated Minister prior to making such restraining order. No Politician should be appointed as a member of such Committee.

c. The Congress of Religions Act No. 13 of 1970 may also be considered.

2. Create a comprehensive legal framework to prevent incitement of ethnic and religious hatred. Any individual or group inciting such hatred should be fined, sentenced and banned.

Religious Publications

1. All religious publications must be regulated to prevent publication of extremist or terrorist content.

Senior Public Officers

1. Senior Public Officers should not hold more than one post. The evidence is that Mr. Hemasiri Fernando held several posts concurrently which reduced the time spent on his duties at the Ministry of Defence.

Social Media

1. The capacity for content monitoring, management and removal should be improved. The social media is being used to spread religious hatred. Validity to social media blocking to counter extremist and terrorist activity must be given by enacting the necessary legal provisions.

Sri Lankan Identity

1. The Government must implement a national action plan aimed at establishing a Sri Lankan identity. All ethnic and religious groups desire to protect their identities. This must be accommodated. Yet this can be done within a broader Sri Lankan identity as seen in other countries.

2. Adopt measures to develop a Sri Lankan feeling and image in the minds of Buddhists, Christians, Hindus and Muslims. This must begin at a very young age in schools.

3. Minority should not be made to feel that they are not part of Sri Lanka.

State Lands

1. A Presidential Task Force to be appointed to carry out an audit of all state land in the country and take immediate steps to evict all unauthorized occupiers.

2. All future permits and grants for state land should be given on a proportionate basis to national ethnic and religious composition. No areas should have only persons from a particular ethnic or religious group. State land must be given based on the national religious ratio and suitable provisions must be made to ensure that no transfer of such State land is thereafter made in violation of such ratio. This recommendation is made as the COI heard of evidence of organized encroachment of state land by certain groups on ethnic or religious basis which may lead to exclusivism.

3. On 4th October 2018, acting on Zaharan's instructions, Sareebu Adam Lebbe aka Gaffor Mama purchased 25 acres from Egodapattuwa,Rideetenna, Welikanda in the name of one Mohomed Safi Mohideen Abdul Cader from one Mohomed Cassim Caldeen for Rs. 20 lakhs. This is said to be land belonging to the Mahaweli Authority which was taken on lease by Caldeen. Action must be taken to obtain possession of this land immediately in accordance with the law.

State Intelligence Service

1. All SIS officers who were responsible for the detection of safe houses in the Eastern Province after 21st April 2016 which led to the remaining members of the group committing suicide at Saindamarudu must be rewarded. The COI refrains from naming them to protect their identity. They did testify before the COI.
2. The Director SIS should be a person who has had some ground experience in either the military or Police.
3. Recruit *psychologists,* sociologists, political scientists, IT experts, computer scientists and experts in international affairs to the SIS.
4. Reinstate the international analysis center at the SIS.
5. Recruits to the SIS should be screened by an independent body.
6. All presentations made by SIS officers must be stored in the data base at the SIS.
7. The legal framework must be strengthened to enable SIS officers to perform their duties without fear of political interference.

Television, Radio and Media

1. Peace TV should be banned in Sri Lanka. It has been banned in Singapore, Malaysia and Bangladesh.
2. Contents of all religious programs on television and radio channels must be monitored to ensure that extremist religious programs are not aired.

Terrorist Investigation Department

1. All terrorist investigations must be handled by the TID unless there are exceptional circumstances.
2. An experienced investigator should head the TID unit.

Voluntary Social Service Organisations Act No. 31 of 1980

1. The Act must be amended by streamlining the registration of non-profit, non-governmental organisations and charities and increasing the monitoring and supervisory powers of the Non-Governmental Secretariat. All such organizations must be subject to a mandatory registration procedure with the Non-Governmental Secretariat and brought within its regulatory power.
2. Three new divisions to be created in the Non-Governmental Secretariat, namely Legal, Financing and Audit and Information Technology divisions.
3. Provide for transfer on secondment of experienced investigators to the Non-Governmental Secretariat.
4. Cadre of the Non-Governmental Secretariat to be increased to meet the demands.
5. Amend the Act to provide the Non-Governmental Secretariat access to the accounts of social service organizations as regulator and consequences for failure to register under the Act.
6. Security clearance to be obtained prior to registration of non-profit, non-governmental organisations and charities.

Wahhabism

1. Wahhabism should be banned in Sri Lanka. The Final Report of the National Commission on Terrorist Attacks Upon the United States claims that "Islamist terrorism" finds inspiration in "a long tradition of extreme intolerance" that flows "through the founders of Wahhabism," the Muslim Brotherhood, and prominent Salafi thinkers. The report further details the education and activities of some 9/11 hijackers in the Al Qassim province of Saudi Arabia, which the report describes as "the very heart of the strict Wahhabi movement in Saudi Arabia." According to the Commission, some Saudi "Wahhabi-funded organizations," such as the now-defunct Al Haramain Islamic Foundation, "have been exploited by extremists to further their goal of violent jihad against non-Muslims."
2. Ban references to teachings and publications of Ibn Taymiyyah, Ibn Abdul Wahab, Abdul Ala Maududi and Hassan Al Banna as they are wahabi scholars.

Preaching of wahhabism is prohibited in Malaysia, Russia and Tajikistan. Egypt while prohibiting wahhabism has ordered the removal of all books written by wahhabi and salafi scholars like Abdul Wahab, Ibn Taymiyyah, Ibn Baz, Gutheim, Ibn Uthaymeen and others. The government of Jordan has banned books of scholars of wahhabi ideology.

3. All thowheed organisations must be proscribed as they are wahhabist organisations.

Youth Participation

1. Begin programs to attract Muslim youth towards sports and other recreational and entertainment activities. This must be done with the active participation of Muslim politicians, religious leaders and civil organizations.
2. National Youth Services Council to prepare a national action plan aimed at creating interaction between youth from different religious denominations.

President Secretary's Copy

Chapter 32

Executive Summary

The tragic events of the 21st of April 2019 brought back memories of the dark days of the LTTE terror. As much as the State failed to nip in the bud the activities of the LTTE resulting in a thirty year old civil war, the seeds of Islamic extremism planted in the country in the early 1980s was not addressed early.

There was racial amity between the Sinhalese and the Muslims from the ancient times of the Sinhala Kings right up to the Kandyan kingdom. However, with the advent of the British to Sri Lanka and its "divide and rule policy", the Muslims became a potent weapon in their hands and were used to undermine the power and influence of the Kandyan Kingdom which damaged the cordial relationship which existed between the Sinhala Muslim communities.

However, other than the Sinhala-Muslim riots of 1915, the relationship between the two communities were peaceful. The Muslim community integrated into the Sri Lankan society and made invaluable contributions to the nation.

The term "wahhabism" is broadly applied outside of the Arab world to refer to a Sunni Islamic movement that seeks to purify Islam of any innovations or practices that deviate from the seventh-century teachings of the Prophet Muhammad and his companions. *Tawhid* (sometimes referred to as Tawheed, Touheed, Tauheed or Tevhidis), is also the term used for wahhabism in Sri Lanka and South India.

The problem with wahhabism is its *takfiri* ideology resulting from an exclusivist understanding of Islamic monotheism (*tawhid*), which arguably led to

widespread bloodshed against those deemed to have fallen outside the scope of Islamic faith.

The Final Report of the National Commission on Terrorist Attacks Upon the United States goes on to state that "Islamist terrorism" finds inspiration in "a long tradition of extreme intolerance" that flows "through the founders of Wahhabism," the Muslim Brotherhood, and prominent Salafi thinkers.

An early attempt to spread wahhabism in Sri Lanka was made in 1947 by Darwesh Abdul Hameed Bakri who established the JASM in Paragahadeniya, Kurunegala. Due to the strong opposition of the Sufis this effort did not prove fruitful.

In 1954, the SLJI was established in Sri Lanka. The SLJI is working on the same ideology as Muslim Brotherhood (Ihquan Muslim) and has close connections with persons and organizations having the same ideology in Egypt, Saudi Arabia, Kuwait, Qatar, India and Pakistan. The final goal of the SLJI is the establishment of an Islam State in Sri Lanka and the creation of an Islamic state internationally. It is a long term objective.

It has a student arm, SLJISM and some of its members have travelled to Syria through Turkey around 2013-2014 to undergo weapons training. Some of its members are in custody over the Easter Sunday attacks.

The more proactive and successful spread of Wahhabism began in Sri Lanka in the 1980s mainly in the Eastern Province. The violent extremism of Wahhabism in Sri Lanka was initially directed towards the traditional Muslims namely the Sufis in Kattankuddy. Between 1990 and 2010 several of their places of religious worship were attacked in addition to the physical violence

directed at the faithful and clerics. The violent activities of the Wahhabis against the Sufis continued unchecked.

The spread of Wahhabism appears to have spread to the ACJU, which is the apex body of Islamic scholars, as well. In 1991 the President of the ACJU Moulana Moulavi Abdul Samath Aalin resigned from the post by writing a letter where he states that wahhabi scholars have taken over the ACJU and that he is too old to fight with them and is thus resigning.

Kattankuddy became a hotbed of Islamic extremism overtime. The environment of exclusivism contributed to its spread.

Zaharan was born and grew up in this atmosphere. By 2005 he had become extremist in his views and formed his own organization named Daarul Adhar ad Da'iyyah in Kattankuddy which is wahhabist. By 2009, he was openly identified as a thowheed supporter.

It appears that Zaharan and his followers did have some T-56 weapons by 2009 which was obtained during the LTTE period although the exact time at which they came to possess them and the amount is not clear. They were buried when the security forces started to check for weapons at the end of the amnesty given to surrender the weapons in 2009. Later they had been sold and it appears that they were not in an operational condition at that point of time.

Around 2009 Zaharan left Daarul Adhar ad Da'iyyah, Zaharan established the NTJ. By October 2013, Zaharan was speaking of Buddhist extremism and groups like BBS.

Between 2012 and 2015 there was a rise in Buddhist extremism due to the actions of the BBS. They highlighted several issues of concern such as Wahhabism, Halal certification, madrasahs and the influx of foreign religious

preachers. However some of the actions of the BBS went beyond those issues and targeted the Muslim community in general. This led to reciprocal radicalization.

Between 26th February 2013 to 22nd October 2014, the members of the Alhaj Abdul Jawan Alim Waliullah Trust, a Sufi group, lodged eleven complaints against Zaharan and his group NTJ at the Kattankuddy Police station. These complaints were against statements made by the NTJ against their group and the spiritual leader Moulavi Alhaj A. Abdul Rahumman Mispahi Pasji.

Zaharan and the NTJ supported the candidature of President Sirisena at the 2015 Presidential elections. At the August 2015 General Elections they supported the candidates from the Sri Lanka Muslim Congress.

On 29th June 2014, the leader of the ISIS, Abu Bakr Al Baghdadi, announced the promulgation of a Caliphate. A map was issued online in 2014 showing the areas that the IS planned to have under its control by 2020. Significantly Sri Lanka was identified as part of the *Khurasan* Province along with India, Pakistan and Iran.

Between 2013 and 2016 several Sri Lankan Muslims went to Syria to join the IS. This came to the attention of the intelligence agencies around 2014-2015.

Generally the NSC meetings were held every week on a specified day. President Sirisena held it on an ad-hoc basis. The priority given to national security was diminished and ethnic harmony and reconciliation took priority.

Around 2016, Zaharan started posting posts similar to IS ideology on his facebook page justifying brutal acts of the IS such as killing of non-Muslims.

Zaharan referred to *Abu Bakr al-Baghdadi*, leader of the IS, as a descendent of Prophet Muhammad. From then onwards he started speaking in favour of the IS on social media.

On 9th December 2016, Zaharan made a sermon at the NTJ mosque in Kattankuddy on Islam and the Caliphate. He explained that Prophet Muhammad established an Islamic State by taking the sword and waging war and killing enemies. He went on to state that Muslims should wage war and that he (Zaharan) is not afraid to die and that he should also die after waging war. The video of this speech was shared on youtube.

These public pronouncements indicate that Zaharan had progressed to violent extremism by the end of 2016. Naufer played a pivotal role in Zaharan progressing to violent extremism.

In March 2017, Zaharan and the NTJ members attacked Sufi members. Thereafter Zaharan was on the run until the Easter Sunday attacks.

Around November 2017, Zaharan began to conduct training camps for his supporters. The training included sermons on the IS, activities of Buddhist extremist organizations like the BBS, training in the use of weapons and explosives. He held around eleven camps in various parts of the country.

The main thrust of the radicalization process employed by Zaharan was a well-constructed narrative. Firstly, it spoke of the Caliphate. The term Caliphate (*khilāfah* in Arabic) is an Islamic State headed by a Caliph (*khalīfah* in Arabic) who is a person considered a politico-religious successor to Prophet Muhammad and a leader of the entire Muslim world (ummah).

Secondly, Zaharan spoke of jihad and references to it in Islamic religious scriptures and emphasized that it must be understood to mean violent jihad.

Thirdly, Zaharan referred to atrocities committed around the world on Muslims and stated that they must be avenged. In particular, he referred to events in Burma and the attacks on IS forces in Syria and Iraq. Fourthly, Zaharan referred to events in Sri Lanka where Muslims were targeted and in particular to the activities of Venerable Galagodaaththe Gnanasara thero.

Fifthly, Zaharan sought to make the Muslim community lose faith in the democratic governance structure of the country.

Zaharan and his group were experimenting with explosives by about August 2018. On 27th August 2017, Rilwan suffered grievous injuries in the process.

The original plan of Zaharan plan was to attack the Kandy Perehara. But it was advanced due to the recovery of explosives from Wanathawilluwa and international factors. IS was losing ground in Syria and Iraq and called on its faithful to launch attacks. He was also concerned that the law enforcement authorities may apprehend him soon.

Around 16th March 2019, after nearly six months of silence, Abu Hassan AL-MUHAJIR, the spokesperson for the IS emerged with an audio recording, calling for retaliatory attacks, against the mosque attacks in New Zealand. The shooting by a white nationalist extremist on 15th March 2019 resulted in the killing of 49 Muslim worshippers attending prayers at two mosques in Christchurch, New Zealand. The audio said, "The scenes of the massacres in the two mosques should wake up those who were fooled, and should incite the supporters of the caliphate to avenge their religion".

By end-March 2019, the group had obtained the necessary material to manufacture the bombs. Preparations for the attacks were well planned by Zaharan and his group.

Zaharan and the seven other suicide bombers gave bayyat at Span Tower Safe house on 20th April 2019. Local and international reasons were cited to justify the attacks.

There were several missed opportunities in addressing the rising IS support within the country and apprehending Zaharan during the period 2015-2019.

The Government including President Sirisena and Prime Minister Wickremasinghe were aware that Sri Lanka was identified as part of the IS Caliphate. Around 32 Sri Lankans had travelled to Syria to join the IS and the Government was put on notice. The Minister of Justice raised the matter in Parliament only to be roundly critiqued by Muslim Members of Parliament for raising an "old issue" as claimed by them.

On 27th November 2017 Prof. Rohan Gunaratna in an interview with mainstream media said that this is the early period where the IS is becoming active in South Asia and Sri Lanka and that States are slow in responding to the threat. Nothing changed in the approach of the Government to countering this threat.

A large cache of explosives were found from Wanathawilluwa on 16th January 2019 which was the largest haul of explosives found after the end of the civil war. The investigations revealed that Zaharan was linked to it. President Sirisena was informed of this at least by 19th February 2019. However no NSC meeting was held thereafter until the 21st of April 2019. Furthermore he

proceeded to India and Singapore on 16th April 2019 without making an acting appointment for Minister of Defence.

On 4th April 2019 the SIS received precise and actionable intelligence from an Indian counterpart with the names of Zaharan and other members of a possible attack. However, the Secretary Defence, CNI, IGP and the Director SIS failed to perform their functions efficiently.

All three of them failed to share this intelligence with other intelligence agencies of the Government.

The data with the SIS was more than sufficient to confirm the reliability of the intelligence and the probability of the event happening. However, necessary action was not taken within the SIS to properly analyse the intelligence. So much so that when President Sirisena was to proceed to Batticaloa for an official engagement, the SIS provided a threat assessment report giving clearance even though it refers to Zaharan and his activities. Nothing was said of the intelligence received.

The Director SIS shared the intelligence with the CNI and mentioned of it to the Secretary Defence and sent a letter to the IGP. However the analysis of the intelligence left it open for the IGP and other recipients to contend that the intelligence had been diluted.

The IGP forwarded this communication to four senior officers with the note "F.N.A.". The officers who received this transmitted it down to their subordinates.

On 17th April 2019, Director SIS received information that there had been a motorbike blast in Thalankuda, Eastern Province. Upon further investigation it

was discovered that it had links to Zaharan. This was conveyed to Secretary Defence and IGP by the Director SIS.

Further intelligence, more precise than the one given on the 4th of April 2019, was given by the Indian counterpart to Director SIS in the evening of 20th April 2019. Yet the law enforcement authorities failed to avert the tragedy.

All eight suicide bombers were briefed to carry out their mission around 8.45 a.m. on 21st April 2019. Except the bomb at Taj Samudra which was carried by Jameel, all the other bombs were exploded with short intervals and close to the specified time.

The death toll from the blasts was 271 (without the suicide bombers and their children) and hundreds more were injured. The compensation paid by the Government is only for 220 deaths.

Since 2015 the Government did not give priority to national security. Instead national harmony and reconciliation was given priority. Many witnesses testified that the Government did not take proactive steps to combat religious extremism.

The Government failed to properly appreciate the magnitude of the threat faced by the country due to IS and Islamic extremism and other forms of extremism. This was aggravated by the breakdown in trust between President Sirisena and Prime Minister Wickremasinghe.

Competition between the intelligence agencies resulted in the failure to share vital intelligence thus preventing a coordinated effort to counter the threat.

The dysfunctional Government was a major contributory factor for the events that took place on 21st April 2019.

The Government including President Sirisena and Prime Minster is accountable for the tragedy.

The lapses on the part of the State and its officers in failing to prevent the Easter Sunday attacks is the greatest dereliction of duty in the annals of public administration and law enforcement in the country.

The thowheed (Wahhabis) ideology is at the core of the Islamic extremism prevalent in the country. This was further fermented by Buddhist extremism which was not checked at an early stage.

Naufer was the theoretician of the group while Ilham, Inshaf, Rilwan, Milhan, Shaini, Sadeeq, Hasthun played important roles. Inshaf and Ilham provided the finances to the group.

In the aftermath of the attacks, there has been speculation on whether Zaharan was the actual leader of the group since it was unheard for the leader of a terrorist group to commit suicide at the outset.

On 27th March 2019 at a meeting at the Panadura safe house, Zaharan informed some of the members that he will also take part in the suicide attack similar to the suicide attack carried out by the leader of the IS group in Bangladesh. Zaharan appears to have been referring to Tamim Ahmed Chowdhury, known by his kunya Abu Ibrahim al-Hanif, and the emir of the Islamic State in Bangladesh. He was the mastermind of the July 2016, Dhaka attack at the Gulshan café which resulted in 29 deaths. Zaharan mistakenly believed that Tamim had died in the attack when in fact he did not.

Another reason for the speculation is the suspicion that there is a foreign involvement in the attack. Several witnesses including some politicians testified to that effect. However none volunteered any evidence other than

the mere ipse dixit. The COI did not find any such foreign link but has recommended that certain identified parties should be further investigated.

There are many steps that must be taken immediately to counter the growing threat of the IS and Islamic extremism. All other forms of extremism including Buddhist extremism must be contained.

An effective Counter Terrorism Law must be enacted expeditiously. Wahhabism must be banned in Sri Lanka. Religious education and the construction of places of religious worship must be regulated.

The madrasah system must be overhauled and closely monitored. Foreign religious preachers must be monitored.

A National Defence Policy and National Security Policy must be adopted and given constitutional recognition.

A new national intelligence apparatus must be adopted supported by a legal framework.

Exclusivism must be eliminated and a Sri Lankan identity established as a national priority.

Compensation paid to the dead and injured must be increased. Properties and money of the suicide bombers must be confiscated to meet part the expenses.

A religious harmony Act must be enacted.

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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY
අංක 2141/88 - 2019 සැප්තැම්බර් මස 21 වැනි සෙනසුරාදා - 2019.09.21
No. 2141/88 - SATURDAY, SEPTEMBER 21, 2019
(Published by Authority)

PART I : SECTION (I) — GENERAL

Proclamations & C. by the President

P.S. No. PS/CSA/00/1/14/8

BY HIS EXCELLENCY MAITHRIPALA SIRISENA
PRESIDENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Seal

MAITHRIPALA SIRISENA

To :

(i) Hon. Janak de Silva Esquire
Judge of the Court of Appeal

(ii) Hon. Nissanka Bandula Karunarathna Esquire
Judge of the Court of Appeal

(iii) Hon. Nihal Sunil Rajapaksa Esquire
Retired Judge of the Court of Appeal

(iv) Hon. Atapattu Liyanage Bandula Kumara Atapattu Esquire
Retired Judge of the High Court

(v) Ms. W.M.M. Adikari
Retired Ministry Secretary

IA - G 31036 — 387 (09/2019)
This Gazette Extraordinary can be downloaded from www.documents.gov.lk

Greetings :

WHEREAS, as on 21st April, 2019, suicide bomb attacks took place in Catholic Churches at Kochchikade in Colombo, Katuwapitiya in Negombo and in Zion Christian Church in Batticaloa and in main Hotels in Colombo, causing deadly injuries to a large number of persons and making a large number of people totally disabled and loss of lives and causing damages to a large number of properties ;

AND WHEREAS, a large number of complaints and allegations have been made against persons, who were public servants / officers, who are alleged to have direct or indirect connections with causing loss of life, totally disabling persons, injuries to a large number of persons and causing damages to properties as a result of aforesaid suicide bomb attacks ;

AND WHEREAS, it is imparative to ensure that the law should be implemented against those who are directly or indirectly responsible for those attacks ;

AND WHEREAS, I am of the opinion that it is in the best interest of public security and welfare to cause the conduct of investigations and inquiries into such complaints, allegations and information, in order to ascertain what measures should be taken to provide far and ensure that the law is appropriately enforced and wrong doers dealt with in terms of the law and that there will be no recurrence of such alleged acts and / or omissions, negligence or failure to perform duties amounting to offences and abuse or misuse of power or authority ;

AND WHEREAS, I am of the view that it is necessary that a Commission of Inquiry be appointed to investigate and inquire into and report or take necessary action on matters hereinafter referred to and provided for ;

NOW THEREFORE, I, Maithripala Sirisena, the President of the Democratic Socialist Republic of Sri Lanka reposing great trust and confidence in your integrity, prudence, ability and fidelity, do in pursuance of the provisions of Section 2 of the Commission of Inquiry Act (chapter 393), by these presents appoint you, the said —

(i) Hon. Janak de Silva Esquire
Judge of the Court of Appeal

(ii) Hon. Nissanka Bandula Karunarathna Esquire
Judge of the Court of Appeal

(iii) Hon. Nihal Sunil Rajapaksa Esquire
Retired Judge of the Court of Appeal

(iv) Hon. Atapattu Liyanage Bandula Kumara Atapattu Esquire
Retired Judge of the High Court

(v) Ms. W.M.M. Adikari
Retired Ministry Secretary

to be my Commissioners to investigate and inquire into, take necessary action to enable future legal actions, and report on the following matters, namely —

1. To call and receive public complaints, information and other materials against public servants / officers or other persons who were working at that time or who still work or any other persons who are alleged to have direct or indirect connections to the bomb explosion that took place on 21st April, 2019 causing loss of life or damaged to properties or regarding acts or abuse of misuse of power and such other alleged act and / or omissions,

2. To held prompt, impartial, complete investigations and inquiries regarding complaints, information and other materials referred to in paragraph 1 above,

3. To identify persons and organizations who are directly or indirectly connected to these terrorist acts referred to in paragraph 1 above,

4. To identify officers and authorities responsible who failed to pre- determine that a terrorist and extremist activities of this nature would take place within the country and to ascertain matters incidental it and who failed or neglected to take action according to law and not taking proper actions in this regard,

5. To identify all authorities who are responsible for failure to prevent the terrorist attacks that took place on 21st April, 2019 and for identify the authorities, who failed to perform their duties and did not take proper action due to incapacity,

6. To identify persons and organizations, who are connected with public protests, acts of sabotage, causing damages to properties and persons and thereby causing public unrest, after the attack took place on 21st April, 2019,

7. To identify persons, organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and which disturbed social order and disrupted the social integrity and caused racial disturbances,

8. To ascertain the circumstances and causes that led to an the nature and particulars of the incidents which took place in the Island on 21st April, 2019 and resulting in —

(*a*) death or total disablement or injury to persons;

(*b*) the destruction or damage of property belonging to or in the possession of any state institution or state or a place of religious worship or private institution;

9. Whether any person or body of persons or any organization or any person or persons connected with such organization —

(*a*) committed or conspired to commit ;

(*b*) aided or abetted in or conspired to aid or abet financially / physically or psychologically in the commission ;

(*c*) in any manner assisted encourage or were concerned in or conspired to assist or encourage the Commission of any of the acts referred to in paragraph (1) and to recommend such measures as may be necessary —

(i) to rehabilitate or assist in any other manner the persons affected by such course of action ;

(ii) to ensure the safety of the public ;

(iii) to prevent the recurrence of such incidents.

10. To identify which of the acts coming within the ambit of matters referred to in above, should be forwarded to the Commission to Investigate Allegations of Bribery or Corruption or to the Police or to any other law enforcement authority or statutory body for the conduct of necessary investigations and inquiries with the view to instituting criminal proceedings against persons alleged to have committed to the said offences,

11. To transmit to the Attorney General such material on investigations and inquiry, enabling the Attorney General to consider the institution of criminal proceedings against persons alleged to have committed the said offences ;

12. To present to me recommendations of the commission regarding what action if any, should be taken against those held responsible for having committed offences and acts of wrongdoing and recommendations aimed at preventing the occurrence of such offences and acts of wrongdoing in the future,

13. To make recommendations on measures to be taken to prevent the possible damage to national security and national unity by such acts of terrorism and extremism.

AND, I do hereby appoint you the said **Hon. Janak de Silva Esquire** to be the **Chairman** of the said Commission.

AND, I do hereby authorize and empower you, the said commissioners, to conduct or cause the conduct of necessary criminal and forensic investigations and inquiries and hold all public and / or confidential inquiries into the aforesaid matters as may appear to you to be necessary, and require you to transmit to me within **three months** from the date of this warrant the first Interim Report, and thereafter subsequent Interim Reports **once in two months**, and the final Report within the **six months** of the date hereof under your hand, setting out the findings of your investigations and inquiries, and your recommendations relating thereto.

AND, I hereby direct that any three Commissioners from among you shall participate in the Commission meetings to fulfill its quorum.

AND, I do hereby direct that such part of any investigations or inquiry relating to the aforesaid matters, as you may in your discretion determine, shall not be held in public.

AND, I do hereby require and direct all public servants, armed forces personnel and officers of statutory bodies, and other persons to whom you may apply for assistance or information, to render all such assistance and furnish all such information required for investigation or inquiries as may be properly rendered and furnished in that behalf.

AND, I do hereby declare that the provisions of Section 14 of the aforesaid Commissions of Inquiry Act, No. 17 of 1948 (Chapter 393) as amended, shall apply to this Commission.

Given at Colombo, under the Seal of the Democratic Socialist Republic of Sri Lanka on this Twentieth day of September, Two Thousand and Nineteen.

By order of His Excellency,

UDAYA R. SENEVIRATNE,
Secretary to the President.

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EXTRAORDINARY
අංක 2146/24 - 2019 ඔක්තෝබර් මස 22 වැනි අඟහරුවාදා - 2019.10.22
No. 2146/24 - TUESDAY OCTOBER 22, 2019
(Published by Authority)

PART I : SECTION (I) — GENERAL

Proclamations & C., by the President

PROCLAMATION BY HIS EXCELLENCY THE PRESIDENT

Notice of Correction

My No. : PS/CSA/00/1/14/8

IN the *Gazette Notification* No. 2141/88 dated 21st September, 2019, issued by His Excellency the President in terms of the provisions of Section 2 of the Commission of Inquiry Act (Chapter 393), the name of Ms. W. M. M. R. Adikari, Retired Ministry Secretary, who was appointed as a member of the Presidential Commission of Inquiry, has been mentioned as Ms. W. M. M. Adikari, Retired Ministry Secretary.

Her name should be corrected as Ms. W. M. M. R. Adikari, Retired Ministry Secretary.

By Order of His Excellency,

UDAYA R. SENEVIRATNE,
Secretary to the President.

Presidential Secretariat,
Colombo 01,
October 18, 2019.

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IA-G 31322—392 (10/2019) PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA.
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The Gazette of the Democratic Socialist Republic of Sri Lanka

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අංක 2146/25 - 2019 ඔක්තෝබර් මස 22 වැනි අඟහරුවාදා - 2019.10.22

No. 2146/25 - TUESDAY, OCTOBER 22, 2019

(Published by Authority)

PART I : SECTION (I) — GENERAL

Proclamations & C., by the President

P. S. No. : PS/CSA/00/1/14/8

BY HIS EXCELLENCY MAITHRIPALA SIRISENA
PRESIDENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Seal

MAITHRIPALA SIRISENA

To :

1. Hon. Janaka de Silva Esquire
   Judge of the Court of Appeal
2. Hon. Nissanka Bandula Karunarathna Esquire
   Judge of the Court of Appeal
3. Hon. Nihal Sunil Rajapaksa Esquire
   Retired Judge of the Court of Appeal
4. Hon. Atapattu Liyanage Bandula Kumara Atapattu Esquire
   Retired Judge of the Court of Appeal
5. Ms. W. M. M. R. Adikari
   Retired Secretary to Ministry

1A-G 31323 — 392 (10/2019)

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GREETINGS !

WHEREAS I, Maithripala Sirisena, President of the Democratic Socialist Republic of Sri Lanka has, by warrant dated 20th September 2019 in terms of the provisions of Section 2 of the Commission of Inquiry Act (Chapter 393) established a Presidential Commission of Inquiry to investigate and inquire into suicide bomb attacks that took place in Catholic Churches at Kochchikage in Colombo, Katuwapitiya in Negombo and in Zion Christian Church in Batticaloa and in main Hotels in Colombo, causing deadly injuries to a large number of persons making them totally disabled and loss of lives and damage to a large number of properties.

AND WHEREAS the said Commission has made a request that the Commission requires additional powers to effectively execute the task the Commission is assigned with at the said inquires and investigations,

It is hereby notified that this Commission is further conferred by me with powers specified under Section 8(1)(a) and (b) of Commission of Inquiry Act, No. 16 of 2008 (Chapter 393) as well.

I do hereby require you to take all such steps that may be required for execution of the tasks referred to in the warrant by which the Commission of Inquiry was established, reposing great trust and confidence in your integrity, prudence, ability and fidelity.

Given at Colombo, under the seal of the Democratic Socialist Republic of Sri Lanka, on this 18th day of October Two Thousand and Nineteen.

By Order of His Excellency,

UDAYA R. SENEVIRATNE,
Secretary to the President.

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President Secretariat Copy

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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY
අංක 2167/5 - 2020 මාර්තු මස 17 වැනි අඟහරුවාදා - 2020.03.17
No. 2167/5 - TUESDAY, MARCH 17, 2020
(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

NOTICE

I do hereby in the exercise of the powers vested in me by Section 4 of the Commission of Inquiry Act (Chapter 393) enlarge by six months from 20th March 2020 to 20th September 2020 the six months period ending 20th March 2020 for rendition of the final report on completion of the tasks assigned to the Commission established by the President of the Democratic Socialist Republic of Sri Lanka under Section 2 of the said Commission of Inquiry Act on 20th September 2019 by Notification published in the *Gazette Extraordinary* No. 2141/88 dated 21st September 2019 of the Democratic Socialist Republic of Sri Lanka to Investigate, inquire into and report on or take necessary actions in relation to the Bomb Explosions that occurred on 21st April 2019.

GOTABAYA RAJAPAKSA,
President.

Presidential Secretariat,
Colombo 01,
13th March, 2020.

1A - G 031983 — 382 (03/2020) PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA.
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අංක 2191/45 - 2020 සැප්තැම්බර් මස 04 වැනි සිකුරාදා - 2020.09.04
No. 2191/45 - FRIDAY, SEPTEMBER 04, 2020
(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

NOTICE

I do hereby in the exercise of powers vested in me by Section 4 of the Commission of Inquiry Act (Chapter 393) once again enlarge the period of time by three months from 20th September 2020 to 20th December 2020 for rendition of the final report on completion of the tasks assigned to the Commission under Section 2 of the said Commission of Inquiry Act on 20th September 2019 by Notification published in the *Gazette Extraordinary* No. 2141/88 dated 21st September 2019 of the Democratic Socialist Republic of Sri Lanka to Investigate, inquire into and report on or take necessary actions in relation to the Bomb Explosions that occurred on 21st April 2019; having enlarged the period of six months ending on 20th March, 2020 by six months from 20th March, 2020 up to 20th September, 2020 by *Gazette Extraordinary* No. 2167/5 dated 17th March, 2020 in the exercise of the said powers vested in me.

GOTABAYA RAJAPAKSA,
President.

Presidential Secretariat,
Colombo 01,
31st August, 2020.

1A - G 32735 — 380 (09/2020) PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA.
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අංක 2206/26 - 2020 දෙසැම්බර් මස 19 වැනි සෙනසුරාදා - 2020.12.19

No. 2206/26 - SATURDAY, DECEMBER 19, 2020

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

NOTIFICATION

I do hereby in the exercise of powers vested in me by Section 4 of the Commission of Inquiry Act (Chapter 393) once again enlarge the period of time from 20th December, 2020 to 31st January, 2021 for rendition of the final report on completion of the tasks assigned to the Commission established under Section 2 of the said Commission of Inquiry Act, on 20th September, 2019 by Notification published in the *Gazette Extraordinary* No. 2141/88 dated 21st September, 2019 of the Democratic Socialist Republic of Sri Lanka to Investigate, inquire into and report on or take necessary actions in relation to the Bomb Explosions that occurred on 21st April, 2019, having enlarged the period of six months ending on 20th March, 2020 by six months from 20th March, 2020 up to 20th September, 2020 by *Gazette Extraordinary* No. 2167/5 dated 17th March, 2020 and again enlarged the period by three months up to 20th December, 2020 by *Gazette Extraordinary* No. 2191/45 dated 04th September, 2020, in the exercise of the said powers vested in me.

GOTABAYA RAJAPAKSA,
President.

Presidential Secretariat,
Colombo 01,
December 18, 2020.

IA — G 33354 — 380 (12/2020)

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NOTICE TO THE PUBLIC

PRESIDENTIAL COMMISSION OF INQUIRY TO INVESTIGATE AND INQUIRE INTO AND REPORT OR TAKE NECESSARY ACTION ON THE BOMB ATTACKS ON 21ST APRIL, 2019

His Excellency Maithripala Sirisena, the President of the Democratic Socialist Republic of Sri Lanka in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act No. 17 of 1948 as amended by Extraordinary Gazette No. 2141/88 – September 21, 2019 has appointed the above Commission to investigate and inquire into and report or take necessary action on the following:

1. To call and receive public complaints, information and other materials against public servants / officers or other persons who were working at that time or who still work or any other persons who are alleged to have direct or indirect connections to the bomb explosion that took place on 21st April, 2019 causing loss of life or damage to properties or regarding acts or abuse or misuse of power and such other alleged acts and / or omissions;
2. To hold prompt, impartial, complete investigations and inquiries regarding complaints, information and other materials referred to in paragraph 1 above;
3. To identify persons and organizations who are directly or indirectly connected to these terrorist acts referred to in paragraph 1 above;
4. To identify officers and authorities responsible who failed to pre-determine that is terrorist and extremist activities of this nature would take place within this country and to ascertain matters incidental to it and who failed or neglected to take action according to law and not taking prosecutions in this regard;
5. To identify all authorities who are responsible for failure to prevent the terrorist attacks that took place on 21st April, 2019 and to identify the authorities, who failed to perform their duties and did not take proper action due to incapacity, connivance or negligence;
6. To identify persons and organizations, who are connected with public protests, acts of sabotage causing damages to properties and persons and thereby causing public unrest, after the attack took place on 21st April, 2019;
7. To identify persons, organizations, who aid and abet actions which caused racial and religious disturbances or give support for such acts within the country and which created public unrest and which disrupted peaceful order and disrupted the social integrity and caused racial disturbances;
8. To ascertain the circumstances and causes that led to and the nature and particulars of the incidents which took place in the Island on 21st April, 2019 and resulting in —
   (a) death or total disablement or injury to persons;
   (b) the destruction or damage of property belonging to or in the possession of any state institution or state or a place of religious worship or private institution;
9. Whether any person or persons or any organization or any person or persons connected with such organization —
   (a) committed or conspired to commit;
   (b) aided or abetted in or conspired to aid or abet financially / physically or psychologically in the commission;
   (c) in any manner assisted, encourage or were concerned in or conspired to assist or encourage the commission of any of the acts referred to in paragraph (1) and to recommend such measures as may be necessary —
      (i) to rehabilitate or assist in any other manner the persons affected by such course of action;
      (ii) to ensure the safety of the public;
      (iii) to prevent the recurrence of such incidents;
10. To identify which of the actions, within the ambit of matters referred to in above, should be forwarded to the Commission to investigate allegations of Bribery or Corruption or to the Police or to any other law enforcement authority or statutory body for the conduct of necessary investigations and inquiries, with the view to instituting criminal proceedings against persons alleged to have committed the said offences;
11. To transmit to the Attorney General such material on investigations and inquiry, enabling the Attorney General to consider the institution of criminal proceedings against persons alleged to have committed the said offences;
12. To present to H.E. the President recommendations of the Commission regarding what action if any, should be taken against those held responsible for having committed offences and acts of wrongdoing and recommendations aimed at preventing the occurrence of such offences and acts of wrongdoing in the future;
13. To make recommendations on measures to be taken to prevent the possible damage to national security and national unity by such acts of terrorism and extremism.

The Commission hereby invites any person, persons or organizations to submit written complaints or information or any other material which relates to the above for the Commission to inquire: Any complaints or statements of whatsoever which relates to factual matters should be supported by affidavit where possible. Such complaints can be made in Sinhala, Tamil or English language, in respect of all or any of the above matters referred to in above paragraphs.

All such representations should reach the Secretary to the Presidential Commission, at the address given below, on or before 14th October 2019 preferably under registered cover.

All such representations should clearly state the name, address, contact telephone number and the e-mail address of such complainant or informant.

The Commission, after examining the written representations received, may invite any person, persons or organization to give oral evidence. Dates to give oral evidence will be duly notified.

Every person or persons who gives evidence before the Commission shall be entitled to the privilege of witnesses as provided for in the Commissions of Inquiry Act No. 17 of 1948 as amended and the rights and entitlements of victims of crime and witnesses as provided for in the Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015 as amended.

By Order of the Commission.

Secretary to the Commission

25th September 2019

ALL WRITTEN COMMUNICATIONS SHOULD BE SENT TO:

Secretary
Presidential Commission of Inquiry to investigate and inquire into and Report or take necessary action on the Bomb attacks on 21st April, 2019
1st Floor, Block No.13,
Bandaranaike Memorial International Conference Hall,
Bauddhaloka Mawatha,
Colombo 07.
e-mail: iirpcl@gmail.com

2019 අප්‍රේල් මස 21 වැනි දින සිදු වූ බෝම්බ ප්‍රහාරයන් සම්බන්ධයෙන් විමර්ශනය කර පරීක්ෂා කොට වාර්තා කිරීම හෝ අවශ්‍ය ක්‍රියාමාර්ග ගැනීම සම්බන්ධයෙන් වූ ජනාධිපති පරීක්ෂණ කොමිෂන් සභාව

දිනය :- 2020. 10.22 වේලාව :- ප.ව. 12.30

(සටහන් කළේ :- කේ.එම්.චන්දිමා දිල්හානි)

ගරු විනිසුරු මඩුල්ල :-

01. ගරු අභියාචනාධිකරණ විනිසුරු ජනක් ද සිල්වා මැතිතුමා - සභාපති

02. ගරු අභියාචනාධිකරණ විනිසුරු නිශ්ශංක බන්දුල කරුණාරත්න මැතිතුමා - සාමාජික

03. විශ්‍රාමික ගරු අභියාචනාධිකරණ විනිසුරු නිහාල් සුනිල් රාජපක්ෂ මැතිතුමා - සාමාජික

04. විශ්‍රාමික ගරු මහාධිකරණ විනිසුරු අතපත්තු ලියනගේ බන්දුල කුමාර අතපත්තු මැතිතුමා - සාමාජික

05. විශ්‍රාමික අමාත්‍යාංශ ලේකම් ඩබ්ලිව්.එම්.එම්.ආර්. අදිකාරී මහත්මිය - සාමාජික

පෙනී සිටීම:-

ජනාධිපති පරීක්ෂණ කොමිෂන් සභාවට සහාය වන ගරු නීතිපතිතුමා වෙනුවෙන් අතිරේක සොලිසිටර් ජනරාල් ජනාධිපති නීතිඥ අයේෂා ජිනසේන මෙනවිය,ජ්‍යෙෂ්ඨ රජයේ අධි නීතිඥ සංජීව දිසානායක මහතා, ජ්‍යෙෂ්ඨ රජයේ අධි නීතිඥ සුහර්ශි හේරත් මහත්මිය, රජයේ අධි නීතිඥ නිමේෂා ද අල්විස් මෙනවිය, රජයේ අධි නීතිඥ චතුරංග බණ්ඩාර මහතා , රජයේ අධිනීතීඥ දිලන්ත එස්. කළුදුරුවගේ මහතා සමඟ රජයේ අධිනීතිඥ අරින්ද්‍ර ජයසිංහ මහතා පෙනී සිටියි.

ගරු කොමිෂන් සභාවේ නියමය පරිදි කොළඹ අභරදගුරු අතිඋතුම් මැල්කම් කාදිනල් රංජිත් ඕමිපාණන්ගේ ඉල්ලීමක් සලකා බැලූ මෙම කොමිසම රෝමානු කතෝලික පල්ලියේ නීති නියෝජිත වශයෙන් කෞෂි සෙල්වනායගම් මෙනවිය ,සමඟ ජනාධිපති නීතිඥ ශමිල් පෙරේරා මහතා කොමිසමේ ප්‍රසිද්ධ සාක්ෂි විමසීමේදී පෙනී සිටීමට අවසර

ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති නිලන්ත ජයවර්ධන මහතා වෙනුවෙන් නීතිඥ මධු ජයතිලක මහත්මිය

ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා

මේ අවස්ථාවේදී කොමිෂන් සභා පනතේ 2008 අංක 16 දරණ සංශෝධන පනතේ 26 වගන්තිය ප්‍රකාරව නීතිපතිතුමා වෙනුවෙන් උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජෙනරාල් සරත් ජයමාන්න මහතා කොමිෂන් සභාව ඇමතීමට අවසර ඉල්ලයි. අවසර ලබා දෙමි.

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා

ගරු සභාපතිතුමනි, ගරු කොමසාරිතුමනි, කොමසාරිස්තුමියනි, බොහෝම ස්තුතියි මට නීතිපතිතුමා වෙනුවෙන් එතුමා වෙනුවෙන් මෙම පනතේ 26 වන වගන්තිය ප්‍රකාරව සැලකිරීමක් කිරීමට අද අවස්ථාව ලබා දීම ගැන. මම මේ අවස්ථාව නීතිපතුමාගේ උපදෙස් පිට යෙදා ගනු ලබන්නේ වැදගත් නීතිමය සහ සිද්ධිමය කාරණයක් සම්බන්ධයෙන්. විශේෂයෙන්ම අද දිනයේ සහ මින් ඉදිරියට මට දැන ගන්න ලැබෙනවා මේ වනතෙක් සැකකරුවන් ලෙස හෝ සැකකාරියන් ලෙස විමර්ශකයන් විසින් අත්අඩංගුවේ තබා ගෙන සිටි යම් සැකකරුවන් ඔබ ගරුතුමන්ලාගේ කොමිෂන් සභාව ඉදිරියේ සාක්ෂිකරුවන් ලෙස කැඳවීමට යම් සුදානමක් තිබෙන විත්තිය ගරු නීතිපතිතුමාට දැන ගන්නට ලැබී තිබෙනවා. ඉතින් ගරු නීතිපතිතුමා වෙනුවෙන් ඔබතුමාලා ඉදිරියේ මා කරන දේශනයේ මුඛ්‍ය පරමාර්ථය මුලින්ම කෙටියෙන් සඳහන් කරනවා නම් සියලුම නීතිමය සහ අනෙකුත් කාරණා සලකා බලන විට සාක්ෂිකරුවන් ලෙස හෝ වෙනත් ආකාරයකින් මෙම සැකකරුවන් කැඳවීම අනාගතයේ දවසක නීතිපතිතුමා වෙතට විතරක්ම පැවරෙන නඩු පැවරීමේ බලයත් පැමිණිල්ල මෙහෙයවීමේ බලයටත් ප්‍රබල අගතියක් සිද්ධ වෙනවා. ඒ නිසා මගේ අවසාන ඉල්ලීම වන්නේ ඒ ඉල්ලීම ප්‍රකාරව මේ ආකාරයෙන් විමර්ශකයන් භාරයේ පොලීසිය භාරයේ රඳවා නියෝග ගැනීම මත රඳවා සිටින යම් යම් සැකකරුවන් මේ කොමිෂන් සභාව ඉදිරියේ දී සාක්ෂිය සඳහා කවර ආකාරයෙන් හෝ කැඳ නොවන ලෙස. ගරු සභාපතිතුමනි ඔබතුමන්ලාගේ කොමිෂමට ජීවය දෙන්න ලැබෙන්නේ කොමිෂන් සභාව පනත යටතේ අතිගරු ජනාධිපතිතුමා විසින් පත්කරන ලද අධිකාරි බලපත්‍රය මත. ඒ අධිකාරි බලපත්‍රයේ පැහැදිලිව සඳහන් වෙනවා May I read that particular portion in English, to be my Commissioners to Investigate and Inquire in to take necessary action, to enable future legal action. ඔබතුමන්ලා මොන කර්තව්‍යය ගෞරවාන්විත කර්තව්‍යය මේ කොමිෂන් සභාවේ පියස යට සිද්ධ කලත් අවසාන පරමාර්ථය සිද්ධවෙන්නේ නඩු කටයුතු අනාගතයේදී පැවරීම. ඒ වගේම එම අධිකාරි පත්‍රයේ 11 වන ඡේදයේ තවදුරටත් සඳහන් වෙනවා ඔබතුමන්ලා විසින් එකතු

කරනු ලබන සාක්ෂි.May I read that "To transmit the Attorney General such material on Investigation and Inquiry enabling the Attorney General to consider the Institution of Criminal Proceedings against persons alleged to have committed such offences."

ඒ මේ ඔක්කෝම මූක්‍ය පරමාර්ථය අවසානයේදී ඔබතුමන්ලා බොහෝම අමාරුවෙන් එකතු කර ගන්නා සාක්ෂි හරියට එක පක්ෂියෙක් බොහෝම අමාරුවෙන් රත්‍රන් බිත්තර එකතු කර ගන්නා වගේ සියුම් ලෙස එකතුකරගන්නා මෙම සාක්ෂිය නීතිපතිතුමා තමන්ගේ දක්ෂතාවය සහ තමන්ගේ වෘත්තිමයභාවය සලකලා අධිකරණයක් ඉදිරියේ නඩු මෙහෙයවන්න කරන තීරණයක්. ඊට අමතරව අපරාධ නඩු විධාන සංග්‍රහයේ ප්‍රකාර නීතිපතිතුමාට විතරයි මේ ලංකාවේ අධිකරණයක් ඉදිරියේ විශේෂයෙන් මහාධිකරණයක් ඉදිරියේ නඩු පැවරීමේ බලය තිබෙන්නේ අපරාධ නඩු විධාන සංග්‍රයේ 393 (7) වන වගන්තිය ප්‍රකාර. ඒ වගේම අපරාධ නඩු විධාන සංග්‍රහයේ 12 වන වගන්තිය ප්‍රකාර නීතිපතිතුමාගේ අවසරය නැතිව මහාධිකරණයේ කිසිම නඩු පැවරීමක් කරන්න බැහැ. ඒ නිසා මේ සිද්ධිය කොච්චර බරපතළ වුණත් ඔබතුමන්ලා කෙතරම් දිවා රෑ මහන්සි වෙලා ඔබතුමන්ලා මේ ගෞරවනීය සේවය කලත් අවසාන පරමාර්ථය මොකක්ද නීතිපතිතුමා නඩු පවරන එක. ඒ නිසා නීතිපතිතුමා නඩු පවරන්නේ කවුරු කාරණා මතද මේ වන විටත් ගරු සභාපතිතුමනි අපාරාධ පරීක්ෂණ දෙපාර්තමේන්තුව මඟින් යම යම් විමර්ශන කරලා තියෙනවා. ඒ විමර්ශන කරන අතරතුරවාරයේදී ත්‍රස්තවාදය වැලැක්වීමේ පනතේ 7 වන වගන්තිය යටතේ යම් යම් පුද්ගලයන්ගෙන් ප්‍රකාශ සටහන් කර ගෙන තියෙනවා. ඒ පුද්ගලයෝ කවදා හරි දවසක සැකකාරයෝ වෙලා මහාධිකරණයක් ඉදිරියේ නඩු පැවරුවහොත් අනිවාර්යය වශයෙන් පැමිණිල්ලට තියෙන අභියෝගය තමයි මෙන්න මේ ප්‍රකාශ ස්වේච්ඡාවෙන් ලබා ගත්ත බවට ඔප්පු කිරීමේ වගකීම. ඒක එක. ඒ වගේම යම් යම් අවස්ථාවලදි මොවුන් විශේෂයෙන්ම ත්‍රස්තවාදය වැලැක්වීමේ පනතේ රැඳවීම් නියෝග යටතේ සිටින කාලය අතරතුරේදී ගරු මහේස්ත්‍රාත්තුමා විසින් අපරාධ නඩු විධාන සංග්‍රහයේ 127 වන වගන්තිය ප්‍රකාරව ඒ ඒ පුද්ගලයන්ගෙන් ප්‍රකාශ ලියලා තියෙනවා. එතකොට මේ වන විට මේ රටේ අධිකරණ ක්‍රියාදාමය මේකට සම්බන්ධ වෙලා තියෙනවා. ඒ වගේම මේ අධිකරණ ක්‍රියාදාමය සම්බන්ධ වෙලා අපරාධ නඩු විධාන සංග්‍රහයේ 127 වන වගන්තිය යටතේ යම් යම් ආකාරයකින් විමර්ශනවලට සහාය දැක්වීමකුත් කරනවා. ඒ වගේම අද දිනයේ සිට යම් යම් සැකකරුවන් රක්ෂිත බන්ධනාගාරගත වෙනවා. ඒ අවස්ථාවේදී අනිවාර්යය වශයෙන්ම බලය ලැබෙනවා මහේස්ත්‍රාත් අධිකරණයට මේ අධිකරණ කටයුතුවලට සහයෝගය දක්වන්න. ඒ නිසා දැනටමත් විර්ශන කටයුතු සිද්ධ වෙලා අධිකරණය මේ සම්බන්ධයෙන් සම්බන්ධ වෙලා අවසානයේදී සිද්ධ වෙනවා මොවුන්ට විරුද්ධව නීතිපතිතුමා විතරයි සැල කර බලන්නේ. ඉතාමත්ම ගෞරවයෙන් කියන්නේ ඔබතුමන්ලා කවර නිර්දේශය කරත් ඉතාමත්

ගෞරවයෙන් කියන්නේ ඔබතුමන්ලා කවර නිර්දේශය කරත් ඒ නයින්ම ස්වායක්තව නඩු පැවරෙන්නේ නැහැ. ඒ නඩු පැවරීමේ තනි සහ අනන්‍ය බලය නීතිපතිතුමා සතු විතරක් තියෙනවා. මේක නීතිපතිතුමාගේ බලයවත් ඔබතුමන්ලාගේ බලය පිළිබඳ ප්‍රශ්නයක් නෙමේ. මට කිසිම බලය පිළිබඳ ප්‍රශ්නයක් නෑ. අපි මේ ආයතන දෙකම ඉතාමත්ම සුහද ව හා සමාන්තරව අපේ අවසාන ඉලක්කය මොකක්ද අපේ අවසාන ඉලක්කය විශේෂයෙන් එදා අප්‍රේල් මාසේ 21 වෙනිදා වෙච්ච ඒ ප්‍රහාරය ඇතුලු ඊට සම්බන්ධ අනෙකුත් සිද්ධීන් සමුදායක් තියෙනවා නම් ඒ කුමන්ත්‍රණයේ සුල මුල හොයගෙන නඩු පවරන එක. ඒ නඩු පවරන්න වෙන්නේ සාක්ෂි ආඥා පනතට අනුව. ඒ විතරක් නෙමේ ඒ නඩු පවරද්දි නීතිපතිතුමාට සිද්ධ වෙන්නේ සාධාරණ සැකයෙන් ඔබ්බට ඔප්පු කරන්න. ඔබතුමන්ලාට කිසිසේත්ම භාරයක් නැහැ සාධාරණ සැකයෙන් ඔබ්බට තමන් ඔබතුමන්ලාගේ ගෞරවණීය නිර්දේශ කරන්න. ඔබතුමන්ලාට තිබෙන්නේ කවුරුහරි හදුනා ගන්නවානම් මේ අපරාධයට සම්බන්ධයි කියලා ඒ සම්බන්ධව නිර්දේශයක් කරන එක පමණයි. ඒ නිසා නීතිපතිතුමාට තියෙන්නේ එතුමාගේ දෙව්ර මත තියෙන්නේ මහා වගකීමක්. හරියට ස්නායු ශල්‍ය වෛද්‍යවරයෙක් මොකක් හරි සැත්කමක් කරන කොට වැරදිලාවත් එක ස්නායුවක් බෙරන්න ගිහිල්ලා තව ස්නායුවක් කැපුනොත් එහෙම ඒ ලේඩාගෙන් වැඩක් වෙන්නේ නැහැ. ඒ නිසා ඔබතුමන්ලා කන්දක් විදරා මොනවාහරි කරලා යම් අත් වැරැද්දක් මේ ක්‍රියාමාර්ගය තුළ සිද්ධ වුණොත් අවාසන භානිය වෙන්නේ මේ රටේ යුක්තිය සාධාරණත්වය අපේක්ෂාවෙන් සිටින සමස්ථ සමාජයට. සමස්ථ සමාජයේ කැඩපත තමයි නීතිපතිතුමා කියන්නේ. ඒක නිසා මෙක කිසිසේත් ම නීතිපතිතුමාගේ බලය පෙන්වන අවස්ථාවක් නෙමේ. මා ගෞරවයෙන් කියන්නේ ඔබතුමන්ලා ඉතාමත්ම ගෞරවනීය රාජකාරියක් මේ අවස්ථාව වන විටත් කරලා තියෙනවා ඒවා ගැන අපි කිසිම බාධාවක් නැහැ. ඒ නිසා තමයි නීතිපතිතුමා වෙනුවෙන් ඔබතුමන්ලාගේ කොමිෂන් සභාවට සහය දෙන්න නිලධාරීන් කණ්ඩායමකුත් පත්කරලා තියෙන්නේ. මගේ ඉල්ලීම දැනටමත් සැකකරුවන් ලෙස හඳුනාගෙන තිබෙන අය සාක්ෂිකරුවන් ලෙසට කැඳවීම මූලික වශයෙන්ම මූලික සිද්ධාන්තය බිඳ දැමීමක්. කවර ආකාරයකින් ද ඔබතුමන්ලා තීරණය ගත්තේ මොවුන් සාක්ෂිකරුවන් හැටියට කැඳවන්න. මොවුන්ට විරුද්ධව ඔබතුමන්ලා ඉදිරියේ අමුද්‍රව්‍ය තිබුණා මදිද ඔවුන්ට විරුද්ධව 16 වන වගන්තිය යටතේ සැකකරුවන් ලෙස සලකන්න. ඔවුන්ට සාක්ෂිකරුවන් ලෙස මෙතෙන්ට කැදෙව්වාට පස්සේ ඔවුන්ට හම්බෙනවා හොඳ චෝදීකාවක්. මොකක්ද හම්බෙන චෝදිකාව හොඳ කෝකැන්න මොකක්ද අනාගතයේ දවසක මේ නඩු විභාගයක් ගියොත් එහෙම ඒ නඩු විභාගයේදී ඒ පැමිණිල්ලේ නඩුව කෙරෙහි සාධාරණ සැකයක් ඇති කරන්න පුළුවන් ඒ සාක්ෂි සලිත කරන්න පුළුවන් චෝදිකාවක් ඔබතුමන්ලා නොදැනුවත්වම සමහර විටක සලස්වා දෙනවා වෙන්න පුළුවන්. මම අපරාධ නඩු ගැන මේ රටේ ගොඩාක් නඩු කරලා තියෙන එක්කෙනෙක්. නීතිපතිතුමාගේ මතය මොකක් වුණත් නැතත්

මම දන්නවා පැමිණිල්ලක් මෙහෙය වන්න යද්දි මගේ ඔලුවේ කැකැරෙන ප්‍රශ්න ගණනාවක්. මොකද එකම සාක්ෂිකාරයා විවිධ අවස්ථාවලදී විවිධ තැන්වලදී දාහක් දේවල් කියලා තිබුණා සාක්ෂිකරුවෙක් හැටියට ප්‍රශ්න ගණනාවක් මතුවෙනවා පැමිණිල්ලට. ඒ වගේම උසාවියේ මහාධිකරණයේ ඉන්න සැකකරු ඔහු විසින් මහේස්ත්‍රාත්තුමාට හරි වෙනත් ජ්‍යෙෂ්ඨ පොලිස් නිලධාරියෙක්ට පාපොච්චාරණයක් කරලා තියෙනවානම් ඒකේ ස්වේච්ඡා භාවය පිළිබඳව අධිකරණයේ පරීක්ෂණයක් කරද්දි Vior dire inquiry එකක් කරද්දි ඒකට අවශ්‍ය අමුද්‍රව්‍ය මේ කොමිෂන් සභාවට ඇවිල්ලා ප්‍රසිද්ධ වෙදිකාවක් හදලා හදා ගන්න පුළුවන්. එතකොට ඔවුන්ට කියන්න පුළුවන් මහාධිකරණය ඉදිරියේදී අප්‍රමාදිත්‍ය පරීක්ෂණය දාද්දි මම මෙහේ විතරක් නෙමේ කොමිෂන් සභාව ඉදිරියේදීත් කිව්වා මගෙන් ස්වේච්ඡාවෙන් නෙමේ අදාල නිලධාරීන් මගේ ප්‍රකාශ සටහන් කරේ. මේවා ගැන මම කියන්නේ අපි ඉතාමත්ම සංවේදී වෙන්න ඕනේ. ඔබතුමන්ලාට බලය ගැන ප්‍රශ්නයක් නෙමේ කිසිසේත්ම ඔබතුමන්ලාගේ අඩුපාඩුවක් කවුරුත් දකින්නේ නැහැ. මෙන්න මේ මං කිව්ව නීතිමය කාරණා ඔබතුමන්ලා සඳහන් කරලා ඒක සාධාරණීකරණය කරනවාතම් නීතිය පිළිබඳ අල්ප මාත්‍රයක්වත් දන්නේ නැති බාහිර අය කිසිසේත්ම ඔබතුමන්ලාට දෝෂාරෝපණයක් එල්ල කරන එකක් නෑ මේ සාක්ෂිකරුවන් මේ සැකරුවන් කැදෙව්වේ නැහැයි කියලා මොකද මේක නීතිමය කර්තව්‍යයක්. ඇත්ත මේ රටේ ජනතාවට දැන ගන්න අයිතියක් තියෙනවා ඇත්ත මේ රටේ මාධ්‍යයට දැනා ගන්න අයිතියක් තියෙනවා ඒ මොන කොහොම අයිතියක් තිබුණත් අවසානයේදී අපිට මහාධිකරණයේ සාර්ථක ලෙස නඩුවක් මෙහෙයවන්න පුළුවන්නම් මේ ඔක්කෝම සුන්නත් දූවිලි වෙලා යන අපරාධ යුක්ති ක්‍රමයේ වැඩක් නැති බවට වැඩක් බවට පත්වෙලා යනවා. ඒ නිසා ගෞරවයෙන් සඳහන් කරන්නේ මෙන්න මේ පුද්ගලයෝ මේ අවස්ථාවේදී කැඳවන්න එපා. අනෙක් කාරණය ගරු ස්වාමිනි මේ සමහර පුද්ගලයන්ට විරුද්ධව දැනටමත් මහාධිකරණවල නඩු පවරලා තියෙනවා. ඒ නඩු පවරලා තියෙන්නේත් විශේෂයෙන්ම ත්‍රස්තවාදය වැලැක්වීමේ පනත යටතේ සඳහන් කරන ලද යම් පාපොච්චාරණ මත රැඳී එතකොට යම් යම් පුද්ගලයෝ ඒ මහාධිකරණය ඉදිරියේ විත්තිවාචකය ගන්න බලාපොරොත්තු වෙනවා නම් ස්වේච්ඡාභාවය පිළිබඳව ඔවුන්ට මෙතනදී හොඳ තෝතැන්නක් හම්බෙනවා සැකකරුවන් හැටියට වෙන නඩුවල නැති සැකකරුවන්ට නැති ඉතාමත්ම අසාධාරණ අවස්ථාවක් ඔවුන්ට ලැබෙනවා මේ වේදිකාවක් හැදුවොත් එහෙම ඔවුන්ගේ නඩු විභාගය සුනුවිසුනු කරන්න. අනිත් එක මේ නඩුව ගරු ස්වාමිනි නිකම්ම හුදකලා සිද්ධියක් නෙමේ. මේ නඩුව වටා තියෙනවා තවත් සිද්ධි ගණනාවක්, වනාතවිල්ලුව වෙන්න පුළුවන්, එහෙම නැත්නම් මාවනැල්ල වෙන්න පුළුවන් ඒ වගේම තවත් සිද්ධි ගණානවක් තියෙනවා. මේ තුළ මහ කුමන්ත්‍රණය තුළ තවත් කුමන්ත්‍රණ ගණනාවක් තියෙනවා. ඒ නිසා මේක අපිට ආවාට ගියාට මේ වැඩේ කරන්න බැහැ අවසානයේදී නීතීපතිතුමා තමයි තීරණය කරන්නේ කවුද මගේ සාක්ෂිකරුවෝ

වෙන්නේ කවුද මගේ සැකකරුවෝ වෙන්නේ. සමහර විට ඉන්න සැකකාරයෙක් නීතිපතිතුමා හිතන්න පුළුවන් මේ රටේ පවතින යුක්තිය පසිඳලීමේ සිද්ධාන්ත සහ දර්ශනය දිහා කල්පනා කරලා මට වෙන සාක්ෂි නැහැ මට හොඳම දේ තමයි මේ පුද්ගලයා හෝ මේ තැනැත්තියට අපරාධ නඩු විධාන සංග්‍රහයේ 256 වන වගන්තිය යටතේ සමාවක් දීලා පැමිණිල්ලේ සාක්ෂිකාරයෙක් කරනවා කියලා. එහෙම කරනවා නම් අපිට තෙරපුමක් ඇයි ඒ සාක්ෂිකාරයාගේ සාක්ෂිය ස්වාධීන සාක්ෂිවලින් තහවුරු කරන්න ඕන. ඊට අමතරව ඒ සාක්ෂිකාරයා අපි අධිකරණය වෙත දාන්නේ හරි ප්‍රවේශමෙන්. හැබැයි අධිකරණයට දාන්න කලින් ඒ සාක්ෂිකාරයා මෙම කොමිෂන් සභාව ඉදිරියේ හරි ඇවිල්ලා ඒ සැකකාරයා අපාරධයට සම්බන්ධ එක්කෙනෙක් මේ කොමිෂන් සභාව ඉදිරියට හරි ඇවිල්ලා නානාප්‍රකාරයේ හරස් ප්‍රශ්නවලට ලක් කරොත් එහෙම මොකද වෙන්නේ ඒ සාක්ෂිකාරයා අපිට දාන්න බැරි වෙනවා. ඒ නිසා ඇත්ත සත්‍ය හොයන්න ඕන බව ඇත්ත. නමුත් සත්‍ය හොයන්න ගිහිල්ලා මේ සාක්ෂියේ වියවුලක් බවට පත්වුණොත් එහෙම වියවුල් සහගත සාක්ෂි තුලින් නීතිපතිතුමා තමයි අමාරුවේ වැටෙන්නේ. නීතිපතිතුමා කියන්නේ මේ රටේ යුක්තිය පසිඳලීමේ ක්‍රමය. ඒ නිසා මං ගෞරවයෙන් සඳහන් කරන්නේ මෙන්න මේ වැදගත් විශේෂයෙන්ම තීරණාත්මක සාක්ෂිකරුවන් දැනටමත් ප්‍රකාශ දීලා තියෙනවා. ඒ ප්‍රකාශ දුන්න සාක්ෂිකරුවන් හෝ සැකකරුවන් ඔවුන්ට රඳවා ගැනීමේ නියෝග මත දීලා තියෙන්නේ. ඔවුන් අද දිනයේ සිට රක්ෂිත බන්ධනාගාරයට පත්වෙනවා. ඒ නිසා ලොකු අවදානමක් තිබෙනවා ඔවුන් අනාගතයේ ඔවුන් ගන්න යන විත්තිවාචික සම්බන්ධයෙන් යම යම් ස්ථාවර මේ අධිකරණය ඉදිරියේ ගන්න. ඒක නිසා මං නීතිපතිතුමා වෙනුවෙන් ගෞරවයෙන් සැලකර සිටින්නේ මේ පුද්ගලයන් මේ අවස්ථාවේදී කිසිසේත්ම සාක්ෂිකරුවන් හෝ එහෙම නැත්නම් 16 වන වගන්තියේ සැකකරුවන් හැටියට නොකැඳවන ලෙසට. එහෙම කළොත් සිද්ධ වෙන්නේ කවදා හරි දවසක අපිට අතීතයට හැරිලා බලලා කියන්න සිද්ධ වෙයි මට නඩු පවරන්න තිබුණු හොඳම අවස්ථාවන් ටික මගෙන් ගිලිහි ගියා කියලා. ඒ නිසා මා ගෞරවයෙන් කියන්නේ විශේෂයෙන්ම මේ පනතේ 23 වන 24 වන වගන්තියේ කියනවා නීතිපතිතුමාට 2008 ගෙනාව සංශෝධනය නිසා බලය ලැබෙනවා ඔබතුමන්ලා ඉදිරියේ මෙහෙයවපු සාක්ෂි දිහා බලලත් නඩු දාන්න. හැබැයි ඒ සාක්ෂි දිහා විතරක් බලලා නඩු දාන්න කලින් අපරාධ නඩු විධාන සංග්‍රහය යටතේ නීතිපතිතුමාට ආයේ සැරයක් කියන්න වෙනවා යම් යම් සැකකරුවන්ට දෝෂාරෝපණය කියලා දීලා ඒ සැකකරුවන්ගේ දෝෂාරෝපණය කියලා දීලා ඔවුන්ගෙන් නැවතත් ප්‍රකාශයක් සටහන් කරන්න කියලා. ඒනිසා ඒ වැඩ පිළිවෙල ඉදිරියට යා යුතු වෙනවා. ඒක නිසා මා ගෞරවයෙන් සඳහන් කරන්නේ විශේෂයෙන්ම රක්ෂිත බන්ධනාගාරය හෝ අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව භාරයේ යම් සැකකරුවන් හිටියා නම් ඔවුන් මේ අධිකරණය

ඉදිරියේදී සාක්ෂිකරුවන් හෝ එහෙම නැත්නම් සැකකරුවන් ලෙස සාක්ෂියට
නොකැඳවනා ලෙස, ඉල්ලාගෙන සිටියි.

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<u>ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා</u>

මේ අවස්ථාවේදී උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්වරයා ලබා දුන් කරුණු දැක්වීමෙන් පැන නඟින කාරණාවක් කොමිෂන් සභාව ඔහුගෙන් විමසයි. එනම් හිටපු පොලිස්පති පූජිත් ජයසුන්දර මහතා සහ හිටපු ආරක්ෂක ලේකම් හේමසිරි ප්‍රනාන්දු මහතා සම්බන්ධයෙන් මෙම ස්ථාවරය නීතිපතිවරයා නොගත්තේ කුමන හේතූන් මත ද යන්න පැහැදිලි කරන ලෙසට ඉල්ලන්නේ ?

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<u>උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා</u>

ගරු සභාපතිතුමනි මං මේ සඳහන් කරේ විශේෂයෙන්ම අපරාධයක සෘජුවම එක එල්ලේම සම්බන්ධ බවට ඒ කියන්නේ සිද්ධියට සම්බන්ධ බවට රක්ෂිත බන්ධනාගාරය හරි එහෙම නැත්නම් රැඳවුම් නියෝග මත තිබෙන පුද්ගලයන් ගැන මම මේ සඳහන් කරේ. ඒ ඇරෙන්න ඔබතුමන්ලා කර කරුණු සටහන් කරලා හොයාගන්න කරුණුත් මේ කොමිෂන් සභාවේත් තිබුණා. ඒකට බාධා කරන්න අපිට කිසිම අරමුණක් තිබෙබේ නැහැ. හිටපු පොලිස්පතිතුමා හරි ඔවුන් හරි සැකකරුවෝ ලෙස රඳවා ගැනීමේ නියෝග මත අපරාධයට සෘජුවම සම්බන්ධ පුද්ගලයන් හැටියට නම් වෙලා තිබුණේ නැහැ. මං මේ කථා කරේ ඒ පුද්ගලයන් නෙමේ අපරාධයට වෙන ආකාරයකින් අන්‍යාකාරයකින් සහභාගිත්ව දුන්න ඒ පුද්ගලයෝ ගැන නෙමේ මං සඳහන් කරේ. කෙලින්ම අපේ අනාගත නඩුවට එක එල්ලේ බලපෑමක් වෙනවා මෙන්න මේ රඳවා ගැනීමේ නියෝග මත ඒ ඇතුලත වක්‍රය මත ඇතුලත වක්‍රය මත හිටි පුද්ගලයන්. මොකද හැම පුද්ගලයන් සම්බන්ධයෙන්ම මම එහෙම දේශනයක් කරන එක සාධාරණ නෑ. අපිට බලන්න ඕනේ ඒකේ ප්‍රමාණය සහ ඒකේ තියෙන ගතික ස්වභාවය සහ ගුණාත්මක භාවය. එහෙම බලලා තමයි මේ ඉල්ලීම කරේ. එහෙම නැත්නම් ඔබතුමන්ලාගේ කොමිෂන් සභාව අකර්මන්‍ය කිරීමේ බලාපොරොත්තුවක් අපේ නීතිපතිතුමාට කිසිසේත්ම තිබුණ් නැහැ. ඒ නිසා ගෞරවයෙන් සඳහන් කරන්නේ මගේ ඉල්ලීම සීමා වෙන්නේ මේ අපරාධයට සැලසුම් කරලා කාලයක් තිස්සේ එකට ඉදලා ඔවුන් මාස ගණනාවක් තිස්සේ සැලසුම් කරලා ඒ සම්බන්ධයෙන් ඒ සැලසුම් කිරීම පිටිපස්සේ හිටපු පුද්ගලයන් ගැන මෙතන සඳහන් කරලා තියෙන්නේ. අනෙක් පුද්ගලයෝ ස්වාමිනි ඔබතුමන්ලාගේ කොමිෂමේ දක්ෂතාවය නිසා තමයි මා පිළිගන්නවා ඒ සාක්ෂි හෙළිදරව් වුණේ. ඒ ගැන මගේ කිසිම විවාදයක් නැහැ ස්වාමිනි.

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<u>ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා</u>

උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජෙනරාල් තුමනි හිටපු පොලිස්පති පූජිත් ජයසුන්දර මහතා සහ හිටපු ආරක්ෂක ලේකම් හේමසිරි ප්‍රනාන්දු මහතා මෙම කොමිෂම ඉදිරියේ සාක්ෂිකරුවන් වශයෙන් කැඳවන විට ඔවුන් සැකරුවන් වශයෙන් අධිකරණයක් ඉදිරියේ නම් කරලාද තිබෙබේ ?

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<u>උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා</u>

ගරු සභාපතිතුමනි මා ගෞරවයෙන් සඳහන් කරන්නේ ඔවුන් අපරාධයට විවිධාකාරයෙන් සම්බන්ධ බවට මේ කොමිෂන් සභාව ඉදිරියේ හෙළිදරව් වෙලා ඇති. නමුත් මේ ඉල්ලීම මෙම අපරාධයට ගැඹුරින්ම සම්බන්ධ අභ්‍යන්තරයේ සිටි ඒ පුද්ගලයන් අති විශේෂයි මේ නඩුවේ කවදා හරි නඩුවක පැමිණිල්ල මෙහෙයවන දවසට

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<u>ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා</u>

ඒක අපි අවබෝධ කෙරුවා. ඔබ කරපු මේ කරුණු දැක්වීම සලකා බැලීම සඳහා තමයි මේ ප්‍රශ්නය අහන්නේ. හේමසිරි ප්‍රනාන්දු මහතා සහ පූජිත් ජයසුන්දර මහතා කොමිෂම ඉදිරියේ 16 වන වගන්තිය යටතේ නොකීසි ලත් තැනැත්තන් වශයෙන් සාක්ෂියට කැඳවන විට අධිකරණමය කටයුත්තක ඔවුන් සැකකරුවන් වශයෙන් නම් කරලාද තිබෙබේ ?

පි: එසේය.

ප්‍ර: දැනට අත්අඩංගුවේ සිටින තැනැත්තන් ඔබතුමා ඔබගේ කරුණු දැක්වීමේ දී සඳහන් කරපු තැනැත්තන් අධිකරණයක් ඉදිරියේ තිබෙන කටයුත්තක සැකකරුවන් වශයෙන් නම් කරලා තියෙනවද ?

පි: මගේ මතකය නිවැරදිනම් මම හිතන්නේ දැනටමත් සමහර සැකකරුවෝ මීට කලින් අධිකරණයට ඉදිරිපත් කරලා රක්ෂිත බන්ධනාගාර කරලා තියෙනවා. එය ස්ථිර කර ගතයුතුයි විමර්ශකයන්ගෙන් විමසලා. ගරු සභාපතිතුමනි අද දිනට යෝජිත හාදියා නැමැති සැකකාරිය අද දිනයේ සැකකාරියක් හැටියට නම් කිරීමට අධිකරණය ඉදිරියේදී යෝජිතයි. ලැබෙන උපදෙස් පරිදි අනෙක් සැකකරුවන් සම්බන්ධයෙන් අද දින පැමිණ සිටින විමර්ශන නිලධාරියාට අවබෝධයක් නැහැ මොකද ඔහුගේ අවධානය යොමු වෙලා තිබෙන්නේ හාදියා නමැති සැකකාරිය සම්බන්ධයෙන් පමණයි ස්වාමිනි. ඒ හාදියා අද දිනයේ අධිකරණයට ඉදිරිපත් කරන අවස්ථාවේදී නිල වශයෙන් සැකකාරියක් විදියට නම් වෙනවා.

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ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා

එම සැකකාරිය අද දිනයේ අධිකරණයට ඉදිරිපත් කිරීමේ අවශ්‍යතාවයක් තිබෙනවද?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා

එසේය ගරු සභාපතිතුමනි. අද දිනය වෙනකොට එම සැකකාරිය සම්බන්ධයෙන් ත්‍රස්තවාදය වැළැක්වීමේ පනත යටතේ විටින් විට නිකුත් කරන ලද රඳවා ගැනීමේ නියෝගවල අවසන් දිනය. ඒ නිසා අද දිනය අනිවාර්යය වශයෙන්ම එම සැකකාරිය අධිකරණයට ඉදිරිපත් කළ යුතු වෙනවා. අද දිනයෙන් පසුව ඇයව රක්ෂිත බන්ධනාගාරගත වෙනවා. විශේෂයෙන්ම ගරු සභාපතිතුමනි ත්‍රස්තවාදය වැළැක්වීමේ පනතේ සඳහන් වෙන්නේ 7 වගන්තියේ ගරු සභාපතිතුමනි මේ ආකාරයට. Any person arrested under sub section 1 of section 6 may be kept in custody for a period not exceeding 72 hours and shall unless the detention order under section 9 has been made in respect of such person be produced before a Magistrate before the expiry of such period and then the Magistrate shall on an application made in writing in that behalf by the police officer not below the rank of Superintendent of Police make order that such person be remanded until the conclusion of the trial. Provided that where the Attorney General consents to release of such person from custody before the conclusion of trial the Magistrate shall release such person from custody. ඒ නිසා ඔබතුමාට පෙනී යනවා ඇති ඒ තීන්දුව ගන්නේ මූදවා හරිනවද කියන තීන්දුව ගන්නත් නීතිපතිතුමාගේ අනුමැතිය අවශ්‍ය වෙනවා. ඒ නිසා ඔබතුමාලා කරන අති ගෞරවනීය කාර්යය අගය කරන ගමන්ම නීතිපතිතුමාට ඉන්පසුව මේ යෂ්ටිය ඔබතුමන්ලා දෙනවා. ඒ යෂ්ටිය දෙද්දී බොහොම සවිමත් යෂ්ටියක් අපිට අවශ්‍යයි. කැඩුණු බිදුණු යෂ්ටියක් නෙවෙයි. ඒ නිසා මම ගෞරවයෙන් කියන්නේ අපිට ඉදිරියේ සමස්ථ සමාජයම බලාගෙන ඉන්නවා. හැම කවුරුහරි වරදක් කරපු එක්කෙනෙක් ඉන්නවානම් ඔහුට විරුද්ධව නඩු පවරන්න. ඒ නිසයි මම මේ ඉල්ලීම කරේ ස්වාමිනි.

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ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා

උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්තුමනි ඔබතුමන් කොමිෂන් සභාවේ ප්‍රශ්නයට ලබාදුන් පිළිතුර එනම්, හිටපු පොලිස්පති පූජිත් ජයසුන්දර මහතා සහ හිටපු ආරක්ෂක ලේකම් හේමසිරි ප්‍රනාන්දු මහතා සහ ඔබ විසින් සඳහන් කරන්නට යෙදුණු අනිත් පුද්ගලයින්ගේ අවස්ථානුකූලභාවය ඇති

වෙනස ඔබතුමා කොමිෂන් සභාවට විස්තර කෙරුවා. එය පැහැදිලි කර ගැනීමක් වශයෙන් ඔබතුමා කිව්වා කොමිෂන් සභාවට දැන් ඉදිරියට ගේන්න නියෙන සාක්ෂිකරුවන් ප්‍රධාන කාරණාව හා සම්බන්ධයි. හිටපු පොලිස්පති සහ හිටපු ආරක්ෂක ලේකම් ඒකට සම්බන්ධ නොවන වෙනත් වරදක් සම්බන්ධයෙන් කියලා. එම සිද්ධිමය කරුණුවලට හැරෙන්නට එම සිද්ධිමය කරුණුවලට හැරෙන්නට නීතිමය තත්ත්වය යටතේ එම සියලු පුද්ගලයෝ සමානද නැද්ද?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා

ස්වාමිනි ගරු සභාපතිතුමනි තවමත් විමර්ශනය පවතින්නේ කළල අවදියේ. මේ ඔක්කෝම ගත්තාට පස්සේ තමයි අපරාධ නඩු විධාන සංග්‍රහයේ 173, 174, 175, 176 වගන්ති අනුව නීතිපතිතුමාට තීරණය කළ යුතු වන්නේ මේ ඔක්කෝම එකම නඩුවක් යටතේ දානවද, නඩු 2ක් දානවද, නඩු 3ක්. ඉතින් මම මේ මේ සම්බන්ධයෙන් මේ අවස්ථාවේදී ගෞරවාන්විතව සඳහන් කරන්නේ මේ අවස්ථාවේදී නිගමනයක් නීතිපතිතුමා අනාගතයේ මොකක් කරයිද කියලා ඇත්තට මම පොහොසත් නැහැ ඒක කරන්න. ඒ සාක්ෂි දිහා බලලා සමහර විට එකට වෙන්නත් පුළුවන්. වෙනම යන්නත් පුළුවන්.

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ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා

උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්තුමා මම ඇහුවේ ඒ එකම නඩුවකද වෙනත් නඩුවකද මේ නඩු ගොනු කරන එක ගැන නෙවෙයි මම ඇහුවේ. ඔබතුමා කොමිසමේ අවධානයට යොමු කරපු ඒ නීතිමය සිද්ධාන්තය එනම් යම් අවස්ථාවකදී එකම තැනැත්තෙකු විවිධ ස්ථානවලදී කරන ප්‍රකාශවලින් පැණ නඟින තත්ත්වය. එම තත්ත්වය සිද්ධිමය කරුණු නෙවෙයි. එම තත්ත්වය හිටපු ආරක්ෂක ලේකම් සහ හිටපු පොලිස්පතිවරයා සමඟ සංසන්දනය කරන විට ඔබතුමා කොමිෂන් සභාවේ අවධානයට යොමු කරපු අනිත් තැනැත්තන් සම්බන්ධයෙන් ද සමාන වෙනවද නැද්ද කියන එකයි?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා

ස්වාමිනි අනිත් තැනැත්තන් සම්බන්ධයෙන් විශේෂයෙන්ම රඳවා ගැනීමේ නියෝග යටතේ ඔවුන්ගේ ප්‍රකාශ සටහන් කරලා තියෙනවා. මහේස්ත්‍රාත්තුමාගේ අපරාධ නඩු විධාන සංග්‍රහයේ 127 වගන්තිය යටතේ. ඒක සම්පූර්ණයෙන්ම සුවිශේෂී තත්ත්වයක්. මොකද එතකොට ස්වෛච්ඡාභාවය පිළිබඳ තත්ත්වයක් ප්‍රශ්නයක් මතුවෙන නිසා.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා
මෙම ඉස්සර හේමසිරි ප්‍රනාන්දු සහ පූජිත් ජයසුන්දර යන පුද්ගලයින් ත්‍රස්තවාදී වැළැක්වීමේ පනත යටතේ ඔවුන් සම්බන්ධයෙන් කටයුතු කරලා තියෙනවද?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා
ස්වාමිනි මට උපදෙස් ලැබෙන පරිද්දට ඔවුන්ට ත්‍රස්තවාදය වැළැක්වීමේ පනත යටතේ කටයුතු කරලා නැහැ.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා
එතකොට මේ සැකකරුවන් සහ ඒ සැකකරුවන් අතර වෙනසක් තිබෙනවද?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා
බැලු බැල්මට වෙනසක් තිබෙනවා. ඔවුන්ට අපරාධ නඩු විධාන සංග්‍රහයේ යටතේ පමණයි මේ වනතෙක් කටයුතු කරලා තියෙන්නේ.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා
අනික් එක ත්‍රස්තවාදී වැළැක්වීමේ පනත?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා
මෙක විශේෂ පනතක් ස්වාමිනි.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා
එතකොට පාපොච්චාරණය කරලා තිබෙනවා සමහර සැකකරුවන් දැනට රිමාන්ඩ්..?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා
ත්‍රස්තවාදය වැළැක්වීමේ පනත යටතේ ඔවුන් පාපොච්චාරණය කරලා තියෙනවා. ඒ වගේම වරද පිළිගැනීම වෙන ආකාරයේ දේවල් කරලා තියෙනවා.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා
දැන් පූජිත් ජයසුන්දර, හේමසිරි ප්‍රනාන්දු වැනි පුද්ගලයින්ගෙන් එහෙම පාපොච්චාරණ ගැනීමක් සිදු කරලා තිබෙනවද?

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උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල් සරත් ජයමාන්න මහතා
අපි දන්න තරමින් නැහැ ස්වාමිනි. අපි දන්න තරමට නැහැ ස්වාමිනි.

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නියෝගය

ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා
උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්වරයා විසින් මෙම කොමිෂන් සභාවට දැක්වූ කරුණු සම්බන්ධයෙන් කොමිෂන් සභාවේ අවධානය යොමු කිරීමෙන් පසුව නියෝගය හෙට දින පෙරවරු 10.00ට සිදු කරන බව සටහන් කරමි. අද දින කොමිෂන් සභාවේ නියෝග මත කොමිෂන් සභාවට ගෙන ආ පුද්ගලයින් දෙදෙනා නැවත හෙට උදැසන කොමිෂන් සභාවට පෙරවරු 10ට ඉදිරිපත් කළ යුතු බවට අපරාධ පරීක්ෂණ දෙපාර්තමේන්තු නිලධාරියා හට දන්වමි. එය අදාල තැනැත්තිය මහේස්ත්‍රාත් අධිකරණයට ඉදිරිපත් කරන අවස්ථාවේදී උගත් මහේස්ත්‍රාත්වරියට දැනුම් දිය යුතු බවට ඔහුට නියෝග කරමි. ඒ අනුව උගත් මහේස්ත්‍රාත්වරියගෙන් ඒ අදාල නියෝගයක් ලබා ගන්නා ලෙසටද ඔහුට නියෝග කරමි.
ඉන් පසුව අද දින සාක්ෂියට කැඳවා ඇති අනිත් තැනැත්තා රිමාන්ඩ් භාරයෙන් කොමිෂන් සභාවට ඉදිරිපත් කර ඇති බව කියා සිටි හෙයින් අදාල බන්ධනාගාර අධිකාරීවරයාට හෙට පෙරවරු 10 ට කොමිෂන් සභාවට එම පුද්ගලයාද ඉදිරිපත් කරන ලෙසට නියෝග කරමි.

2019 අප්‍රේල් මස 21 වැනි දින සිදු වූ බෝම්බ ප්‍රහාරයන් සම්බන්ධයෙන් විමර්ශනය කර පරීක්ෂා කොට වාර්තා කිරීම හෝ අවශ්‍ය ක්‍රියාමාර්ග ගැනීම සම්බන්ධයෙන් වූ ජනාධිපති පරීක්ෂණ කොමිෂන් සභාව

දිනය :- 2020. 10.23 වේලාව :- පෙ.ව. 10.40

(සටහන් කළේ :- නිල්මිණි කුමාරි)

ගරු විනිසුරු මඩුල්ල :-

01. ගරු අභියාචනාධිකරණ විනිසුරු ජනක් ද සිල්වා මැතිතුමා - සභාපති

02. ගරු අභියාචනාධිකරණ විනිසුරු නිශ්ශංක බන්දුල කරුණාරත්න මැතිතුමා - සාමාජික

03. විශ්‍රාමික ගරු අභියාචනාධිකරණ විනිසුරු නිහාල් සුනිල් රාජපක්ෂ මැතිතුමා - සාමාජික

04. විශ්‍රාමික ගරු මහාධිකරණ විනිසුරු අතපත්තු ලියනගේ බන්දුල කුමාර අතපත්තු මැතිතුමා - සාමාජික

05. විශ්‍රාමික අමාත්‍යාංශ ලේකම් ඩබ්ලිව්.එම්.එම්.ආර්. අදිකාරී මහත්මිය - සාමාජික

පෙනී සිටීම:-

ජනාධිපති පරීක්ෂණ කොමිෂන් සභාවට සහාය වන ගරු නීතිපතිතුමා වෙනුවෙන් අතිරේක සොලිසිටර් ජනරාල් ජනාධිපති නීතිඥ අයේෂා ජිනාසේන මෙනවිය,ජ්‍යෙෂ්ඨ රජයේ අධි නීතීඥ සංජීව දිසානායක මහතා, ජ්‍යෙෂ්ඨ රජයේ අධි නීතිඥ සුහර්ශි හේරත් මහත්මිය, රජයේ අධි නීතිඥ නිමේෂා ද අල්විස් මෙනවිය, රජයේ අධි නීතීඥ චතුරංග බණ්ඩාර මහතා , රජයේ අධිනීතීඥ දිලන්ත එස්. කළුදුරුවගේ මහතා සමඟ රජයේ අධිනීතිඥ අරින්ද්‍ර ජයසිංහ මහතා පෙනී සිටියි.

ගරු කොමිෂන් සභාවේ නියමය පරිදි කොළඹ අහරදගුරු අතිඋතුම මැල්කම් කාදිනල් රංජිත් හිමිපාණන්ගේ ඉල්ලීමක් සලකා බැලූ මෙම කොමිසම රෝමානු කතෝලික පල්ලියේ නීති නියෝජිත වශයෙන් කෞෂි සෙල්වනායගම් මෙනවිය ,සමඟ ජනාධිපති නීතීඥ ශාමිල් පෙරේරා මහතා කොමිසමේ ප්‍රසිද්ධ සාක්ෂි විමසීමේදී පෙනී සිටීමට අවසර

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ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා

අද දින ප්‍රථමයෙන් සිදු කිරීමට නිබෙන්නේ ඊයේ දිනයේදී කොමිෂන් සභාව ඉදිරියේ ගරු නීතිපතිතුමා වෙනුවෙන් පෙනී සිටි උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජෙනරාල්වරයා විසින් කොමිෂන් සභාවට කරන ලද කරුණු දැක්වීම සම්බන්ධයෙන් නියෝගය ප්‍රකාශයට පත් කිරීමයි. එම කරුණු දැක්වීම් මාධ්‍යය නොමැතිව ඊයේ දිනයේදී ලබා ගත් හෙයින් නියෝගය ප්‍රකාශ කිරීමද ඒ අනුව මාධ්‍යය නොමැතිව කරන බව සටහන් කරමි. මාධ්‍යය මේ අවස්ථාවේදී කොමිෂන් සභාවෙන් පිටත් කරමි. එසේම නීතිඥවරුන් හැර අනිත් සියලු තැනැත්තන් කොමිෂන් සභාවෙන් පිටත් කරන්න.

අදාල නියෝගය කොමිෂන් සභාවේ බහුතරයකින් ප්‍රකාශයට පත් කිරීම සිදු කරන අතර පළමුව සුළුතරයේ තීන්දුව හිටපු අභියාචනාධිකරණ විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා විසින් කරනු ඇත.

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ගරු විනිසුරු සුනිල් රාජපක්ෂ මැතිතුමා

මෙම කොමිෂන් සභාවේ, ගරු සභාපති කොමසාරිස්වරයා සහ අනිකුත් විනිසුරුතුමන්ලා විසින් දීමට බලපොරොත්තු වන නියෝගයට මා එකඟ නොවන බැවින් ඒ සම්බන්ධව මාගේ නියෝගය වෙන්ව ප්‍රකාශයට පත් කරමි. නීතිපතිවරයා වෙනුවෙන් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්තුමා මෙම කොමිෂන් සභාව ඉදිරියේදී ප්‍රකාශ කර සිටිනු ලැබුවේ මෙම කැඳවීමට නියමිත සැකකරුවන් මෙම කොමිෂන් සභාවේ සාක්ෂිය සඳහා කැඳවීමෙන් ඉදිරියේදී අධිකරණයක් ඉදිරියේ පවත්වනු ලබන නඩු කටයුත්තකදී එම ක්‍රියාවලියට යම් අගතියක් සිදුවිය හැකි බවයි. මේ සම්බන්ධයෙන් වැඩිදුරටත් නීතිපතිතුමා වෙනුවෙන් සැල කර ඇත්තේ මෙම දැනට අද දින කැඳවීමට නියමිත සහරාන් නැමැති පුද්ගලයාගේ බිරිඳ දැනට මහේස්ත්‍රාත්වරයෙකු ඉදිරියේද පාපොච්චාරණයක් කර ඇති බවයි. මේ අනුව අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව ඉදිරියේ ද ඇය ප්‍රකාශයක් කර ඇති බව මා දැනුවත් වී ඇත . මෙබැවින් මෙම ප්‍රකාශ මෙම කොමිෂන් සභාවට දෙන ලද ප්‍රකාශවල ඇතුලත් වන කරුණුද ඇතුලත් වී ඇති බව මා දැනුවත් වී ඇත. කෙසේ වුවද මෙම කොමිෂන් සභාවේදී ඇය සාක්ෂියට කැඳෙවිවොත් එම ප්‍රකාශවල සඳහන් වන කරුණුවලට අමතරව යම් කරුණු ඉදිරිපත් කළ හැකි බව මා හටද පෙනී යයි. කෙසේ වුවද මෙවැනි අවස්ථාවකදී අප සලකා බැලිය යුත්තේ රටේ පවතින නීතිමය පසුබිම තුළ මෙම සාක්ෂිකරුවන් කැඳවිය යුතුද යන්නයි. මෙවැනි අවස්ථාවක විනිසුරුතුමෙකු වශයෙන් මාගේ හැඟීම්වලට වහල් වෙලා කටයුතු කළ නොහැක. විනිශ්චයකාරතුමෙක් වශයෙන් මාගේ ප්‍රධානම කාර්යය වනුයේ නීතිමය තත්ත්වය පරීක්ෂා කර බැලීමයි. අපරාධ නඩු විධාන

සංග්‍රහය අනුව නීතිපතිවරයාට අපරාධ නඩුවක් පැවරීමේ පූර්ණ බලතල ඇත. නීතිපතිතුමා විසින් යම් අතිචෝදනාවක් ඉදිරිපත් කිරීමේදී යම් සැකකරුවෙකුට එරෙහිව ඉදිරිපත් කළ යුතු චෝදනා කුමක්ද, සාක්ෂිකරුවන් කවුරුද ,ලේඛන කුමක්ද, සාක්ෂි මෙහෙය වන්නේ කුමන ආකාරයෙන්ද යන්න සම්බන්ධයෙන් තමාට තීරණයක් ගැනීමේ නීතිපතිවරයාට බලයක් ඇත. නීතිපතිවරයා එය තම අනිකුත් නිලධාරීන් මඟින් මහාධිකරණයේදී එම කටයුතු සිදු කරනු ලබයි. එයට අමතරව ඕනෑම අවස්ථාවක යම් සාක්ෂිකරුවෙකු අපරාධ නඩුවක රජයේ සාක්ෂිකරුවෙකු ලෙස නම් කිරීමේ බලයද නීතිපතිතුමාට ඇත. එම බලය ඇත්තේ නීතිපතිතුමාට පමණි වෙනත් කෙනෙකුට නොවේ. ඒ අනුව අසීමිත බලයක් නඩු පැවරීමේදී නීතිපතිතුමාට ඇත. නීතිපතිතුමා වෙනුවෙන් මෙම කොමිෂන් සභාවට ඉදිරිපත් කර ඇත්තේ මෙම සැකකරුවන් සාක්ෂිකරුවන් වශයෙන් කැඳවීමෙන් තම නීතිමය කටයුතු ඉදිරියේදී ගෙන යෑමේදී යම් අවහිරතාවයක් ඇතිවිය හැකි බවයි. අප රටේ නීතිපතුමා අපරාධ නඩු මෙහෙයවීමේදී පූර්ණ බලධාරියා වේ. ඒ අනුව නීතිපතිතුමා සද්භාවයෙන් යම් කරුණක් සම්බන්ධව තමාට මෙම සාක්ෂි මෙහෙයවීම හේතු කොටගෙන මහාධිකරණ නඩුවලදී චෝදනා ඉදිරිපත් කිරීමටත් අනෙක් සැකකරුවන් සම්බන්ධව අපරාධ නඩු කටයුත්තකට යෑමටත් යම් අවහිරතාවයක් සිදුවන බව ප්‍රකාශ කළ විට ඒ සම්බන්ධයෙන් අප දැඩිව අවධානය යොමු කළ යුතුය. මා විසින් මේ සම්බන්ධයෙන් වැඩිදුරටත් සලකා බැලීමේදී සඳහන් කරනුයේ මෙම සැකකරුවන්ගෙන් සමහරක් පාපොව්වාරණ ද ලබා දී ඇති බැවින් එම පාපෝච්ඡාරණ සම්බන්ධයෙන් මහාධිකරණයේ Voir dire පරීක්ෂණද පැවැත්විය යුතු බවයි. Voir dire පරීක්ෂණ පැවැත්වීමේ දී එම සාක්ෂි මෙහෙයවීම් ඉතා සුපරීක්ෂාව කළ යුතුය. යම් සැකකරුවෙකු මෙම කොමිෂන් සභාවේදී සාක්ෂි දෙමින් එම තමන්ගේ නිර්දෝෂිභාවය සඳහා සහ පාපෝච්ඡාරණය ස්වේච්ඡාවෙන් නොකල බවට ඒත්තු ගැන්වීම සඳහා කරුණු ඉදිරිපත් කරනු ලබුවොත් එයින් එම Voir dire පරීක්ෂණයේ කටයුතුවලට බාධා සිදුවෙනවා ඇත. එයින් නීතිපතිවරයාට Voir dire පරීක්ෂණය නිසි ආකාරව පවත්වාගෙන යාමට නොහැකි වන අතර බොහෝ අවස්ථාවල සැකකරුවෙකු සාක්ෂි වශයෙන් මෙම කොමිෂන් සභාවේ එයට විරුද්ධව Voir dire පරීක්ෂණයට අදාලව යම් ප්‍රකාශයක් කරනු ලැබුවොත් එම සැකකරුට සමහරවිට යම් අගතියක් සිදුවිය හැකියි. මේ සම්බන්ධයෙන් ද කොමිෂන් සභාවේ සාමාජිකයෙකු වශයෙන් මා සලකා බලන ලදි. මේ හැරුණු විට මෙම යම් සැකකරුවෙකු සාක්ෂිකරුවෙකු වශයෙන් සාක්ෂි දෙන අවස්ථාවේදී වෙනත් සැකකරුවෙකු සම්බන්ධව කරුණු ඉදිරිපත් කළහොත් එයින් ද එම සැකකරුවන් සම්බන්ධව චෝදනා ඉදිරිපත් කිරීමේදී කුමන ආකාරයකින් චෝදනා ඉදිරිපත් කිරීම ද යන්න සම්බන්ධයෙන් නීතිපතිතුමාට ගැටලුවක් ඇතිවෙනු ඇත. එසේම යම් සැකකාර සාක්ෂිකරුවෙක් මෙම සාක්ෂි විමසීමේදී යම් වෙනත් සැකකරුවෙකු සම්බන්ධව

ප්‍රකාශයක් කළහොත් එම සැකකරුට ජනාධිපති කොමිෂන් සභා පනතේ 16 වන වගන්තිය යටතේ නීතිඥවරයෙකු මාර්ගයෙන් ඔහුගෙන් ඇයගෙන් ප්‍රශ්න ඇසීමට අවස්ථාවක් ලබා දියු යුතුය. එසේ නීතිඥවරයකු මාර්ගයෙන් ඇයගේ නීතිමය අයිතීන් අනුව ප්‍රශ්න ඇසීමට අවස්ථාවක් ලබා දුනතහොත් එයින් මතු වන කරුණු මත නීතිපතිතුමාට මහාධිකරණයේදී නඩු පැවරීමේදී යම් ගැටලුසහගත අවස්ථාවන් උදාවිය හැකිය. එවැනි ආකාරයෙන් කටයුතු කිරීම මත අපරාධ නඩුවක් පැවරීමේ යම් ගැටලුසහගත තත්ත්වයක් උද්ගත වුවහොත් එයින් ඇතිවන අවදානම් තත්ත්වය ගැන නීතිපතිතුමා මෙම අවස්ථාවේදීම දැනුවත් වී ඒ ගැන කොමිෂන් සභාව දැනුවත් කිරීම සම්බන්ධයෙන් මා ස්තුතිවන්ත වෙමි. තවද විශේෂයෙන් මා මෙහිදී අවධානය යොමු කරනු ලැබුවේ ජනාධිපති කොමිෂන් සභා පනතේ 16 වන වගන්තිය යටතේ දියයුතු යම් චෝදනාවට ඇය ලක්වීමට හෝ හැකියාවක් ඇත්නම් ඇයට එම සැකකාරියට හෝ සැකකරුට නීතිඥවරයකු මඟින් පෙනී සිටීමට ඇති අයිතියයි. නීතිමය මූලධර්ම අනුව එම නීතිඥයකු මාර්ගයෙන් සාක්ෂි ලබා දීමට හෝ එම සාක්ෂිකරුවකුගේ සාක්ෂි නිසා අගතියට පත් පාර්ශවයට නීතිඥ මාර්ගයෙන් ප්‍රශ්න ඇසීමට ලබා දීම මඟින් මෙම සැකකරුවන් දෙන සාක්ෂිවල යම් ගැටලුසහගත තත්ත්වයන් ඇති විය හැකි බව මාගේ නිගමනයයි. එවැනි පරස්පර ගැටලුසහගත තත්ත්වයන් ඇතිවීම මත ක්‍රමාණුකූලව අපරාධ නඩුවක් පැවරීමේ හැකියාව නීතිපතිතුමාට නැතිවිය හැකි බවද මාගේ මතයයි. මෙම සැකකරුවන් සාක්ෂිකරුවන් ලෙස කොමිෂන් සභාවට නොකැඳවීමෙන් විශාල අගතියක් සිදු නොවන බව මාගේ හැඟීමයි. ජනාධිපති කොමිෂන් සභා පනත අනුව සත්‍ය තොරතුරු හැකිතාක් දුරට උපරිම මට්ටමෙන් ලබා ගත යුතු වුවද එම උපරිම මට්ටමින් ලබා ගැනීමට කටයුතු කිරීම මත ඉදිරියේදී සැකකරුවන්ට නඩු පැවරීමේදී යම් ගැටලුසහගත තත්ත්වයන් උදාවිය හැකිනම් ඒ පිළිබඳව සලකා බලා එම සැකකරුවන් සාක්ෂියට නොකැඳවීම කොමිෂන් සභාව විසින් කල යුතු බව මාගේ පෞද්ගලික මතයයි. මෙම කොමිෂන් සභාව විසින් අසන ලද ප්‍රශ්නයකට පිළිතුරු දෙමින් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජෙනරාල්තුමා ප්‍රකාශ කරනු ලැබුවේ දැනට නඩු පවරනු ලැබූ හේමසිරි ප්‍රනාන්දු සහ පූජිත් ජයසුන්දර යන අය සම්බන්ධයෙන් මෙවැනි නියෝගයක් බලාපොරොත්තු නොවූන බවත් නමුත් ඔවුන්ට එරෙහිව ත්‍රස්තවාදය වැලැක්වීමේ පනත යටතේ නඩු පැවරීම සඳහා චාර්තා ඉදිරිපත් කර නැති බවත්, ඔවුන් රඳවා තබා ගැනීමේ නියෝග මත තබා නොසිටින බවත්ය. මේ සම්බන්ධයෙන්ද මා අවධානය යොමු කරමින් ප්‍රකාශ කර සිටින්නේ මෙම කොමිෂන් සභාවට කැඳවීමට කටයුතු කරන ලද සැකකරුවන් ත්‍රස්තවාදය වැලැක්වීමේ පනත යටතේ රඳවා තබාගන්නා ලද සැකකරුවන් බවයි. මෙබැවින් එවැනි සැකකරුවන් එබැවින් අනිකුත් චෝදනාවන් ඉදිරිපත් කරන සැකකරුවන්ට වඩා වෙනස් ආකාරයෙන් මෙම සැකරුවන් පිළිබඳ මෙම ඉල්ලීම කිරීමෙන් නීතිපතිතුමා වරදක් කර ඇති බවක් මා හට පෙනී නොයයි. විශේෂයෙන් කොමිෂන් සභාවේ කටයුතු කිරීමේදී

කොමිෂන් සභාවේ වගකීම වනුයේ ඉදිරි නීති කටයුතුවලට බාධා නොවන අයුරින් පරීක්ෂණ කොමිෂන් සභාවේ කටයුතු හා සාක්ෂි මෙහෙය වීමයි. විශේෂයෙන් මා මෙහිදි වැඩිදුරටත් ප්‍රකාශ කරනු ලබනුයේ මෙම කොමිෂන් සභාවේ සියලුම බලතල සහ කාර්ය භාරයන් 2020 දෙසැම්බර් මස 20 වෙනිදායින් අවසන් වන බවයි. 2020 දෙසැම්බර් 20 වෙනිදායින් පසුව මෙම කොමිෂන් සභාවේ තිබෙන බලතල අහිමි වනු ඇත. එයට පසු කොමිෂන් සභාව වෙනුවෙනුත් කොමිෂන් සභාවේ කටයුතු සම්බන්ධයෙනුත් අධිකරණයකදී කරුණු කියාපෑමට සිදුවන්නේ නීතිපතිතුමාටයි. එසේ කරුණු කියාපෑමට නීතිපතිතුමාට සුදුසු වාතාවරණයක් අප විසින් සකස් කළ යුතුය. නීතිපතිතුමාට සුදුසු වාතාවරණයක් ඉදිරි අධිකරණ කටයුතු කරගෙන යෑමට සකස් නොකර යම් අවභිරතා ඇතිවුණොත් ඉදිරියේදී මෙම සැකකරුවන්ට එරෙහිව නීතිමය කටයුතු සාර්ථකව පවත්වාගෙන යාමට හැකිවේද යන්න පිළිබඳව මා මාගේ අවධානය යොමු කරන ලදී. මෙබැවින් මම අනිකුත් කොමසාරිස්තුමාලාගේ තවද මා වැඩිදුරටත් ප්‍රකාශ කර සිටින්නේ මෙම සැකකරුවන්ගෙන් සාක්ෂි ලබා ගැනීමෙන් යම් වැඩිදුර කරුණු හෙළිදරව් වීමට හැකි වුවත් ඉදිරියේදී මෙම ප්‍රහාරය සම්බන්ධව සැකකරුවන්ට එරෙහිව සාර්ථකව නීතිමය කටයුතු කරගෙන යෑම සම්බන්ධයෙන් එයට වඩා ප්‍රමුඛතාවයක් ලබා දිය යුතු බවයි. සිද්ධිමය කරුණු සම්බන්ධයෙන් මෙම සාක්ෂිකරුවන්ගෙන් නව කරුණු හෙළි වී ඇත්නම් ඒවා අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවේ ප්‍රකාශවලද පාපොව්වාරණවලද සටහන්ව ඇත. එසේනම් ඒ අනුවද තවදුරටත් පරීක්ෂණ කිරීමට නීතීමය අංශවලට හැකියාවක් ඇත. මෙම ජනාධිපති කොමිෂන් සභාවටද යම් යම් කරුණු සම්බන්ධව ඇයගේ ප්‍රකාශ පිළිබඳව දැනුවත් වී ඇති බැවින් තවදුරටත් ඒ පිළිබඳ පරීක්ෂණ කරමින් ඉදිරි කටයුතු කර ගෙන යාමට හැකියාවක් ඇත. එබැවින් මා අවසාන වශයෙන් තීරණය කරනුයේ මෙම සැකකරුවන් හා සැකකාරියන් සාක්ෂියට කැඳවීමෙන් ඉදිරි අධිකරණ කටයුතුවලදී යම් බාධාවක් ඇතිවීමට අවස්ථාවක් ඇති බවයි. අධිකරණයේ නඩු පවරනු ලබන නීතිපතිතුමා විසින්ම මෙය කොමිෂන් සභාවේ අවධානයට යොමු කර ඇති බැවින් අප ඒ ගැන වඩාත් සැලකිලිමත් විය යුතුය. එබැවින් නීතිපතිතුමාගේ ඉදිරි කටයුතු මෙම සැක කටයුතු පුද්ගලයින් වෙනුවෙන් කරගෙන යාමට අවස්ථාවක් ලබාදීම සඳහා ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්තුමා විසින් කරන ලද ඉල්ලීමට අවසර දීම සුදුසු බව මා තීරණය කරමි. ඒ අනුව අනෙකුත් උගත් කොමසාරිස්වරයන්ගේ තීරණයට වෙනස්ව මාගේ තීරණය ප්‍රකාශ කරමි.

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ගරු සභාපති විනිසුරු ජනක් ද සිල්වා මැතිතුමා
ස්තුතියි රාජපක්ෂ මැතිතුමා
බහුතරයේ තීන්දු ව එනම් අභියාව ාතාධිකරණ විනිශ්චයකා ර ගරු බ දුල කරුණාරත්න මැතිතුමා, හිටපු මහාධිකරණ විනිශ්චයකාර ගරු බ දුල අත්තපත්තු මැතිතුමා සහ හිටපු අධිකරණ අමාත්‍යාංශයේ ලේකම් ගරු මංගලිකා අදිකාරි මහත්මිය මා සමඟ එකඟ වන නියෝගය මේ අවස්ථාවේදී ප්‍රකාශයට පත් කරමි.

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බහුතර නියෝගය

2020.10.22 වෙනි දින වරින් වර සංශෝධිත කොමිෂන් සභා පනතේ 26 වැනි වගන්තිය යටතේ ගරු නීතිපතිතුමාගේ උපදෙස් අනුව කොමිෂන් සභාව ඉදිරියේ පෙනී සිටි උගත් ජ්‍යෙෂ්ඨ අතිරේක සොලිසිටර් ජනරාල්වරයා කරුණු සැළ කිරීමේ දන්වා සිටියේ සැකකරුවන් ලෙස හෝ සැකකාරි යක් ලෙස විමර්ශකයන් විසින් අත්අඩංගුවේ තබාගෙන සිටින යම් සැකකරුවන් මෙම කොමිෂන් සභාව ඉදිරියේ දී සාක්ෂිය සඳහා කවර ආකාරයකින් හෝ නොකැඳවන ලෙසයි. ඔහු විසින් වැඩිදුරටත් දන්වා සිටියේ එලෙස කැඳවීම අනාගතයේ දවසක ගරු නීතිපතිතුමා වෙතට විතරක්ම පැවරෙන නඩු පැවරීමේ බලයත්, පැමිණිල්ල මෙහෙයවීමේ බලයටත් ප්‍රබල අගතියක් සිදු වෙන නිසා බවයි.
එසේම ගරු නීතිපතුමා වෙනුවෙන් සැළ කරන ලද්දේ මෙම කොමිසම කවර නිර්දේශය කරත් එනයින්ම, ස්වායක්තව නඩු පැවරෙන්නේ නැති බවත්, ඒ නඩු පැවරීමේ තනි සහ අනන්‍ය බලය ගරු නීතිපතිතුමා සතුව විතරක් පවතින බවයි. එනමුත් වික්ටර් අයිවන් එරෙහිව සරත් එන් සිල්වා නීතිපති සහ තවත් පුද්ගලයෙකු 1998 (1) ශ්‍රී ලංකා නීති වාර්තා 340 පිටුවේ සටහන්ව ඇති ශ්‍රේෂ්ඨාධිකරණ නඩු තීන්දුවේ මාර්ක් ප්‍රනාන්දු විනිසුරුතුමා ප්‍රකාශ කරන ලද්දේ "... The Attorney General's power, to file or not to file an indictment... is a discretionary power which is neither absolute nor unfettered. It is similar to other powers vested by law in public functionaries. They are held in trust for the public to be exercised for the purpose for which they have been conferred and not otherwise."
ඒ නිසා නඩු පැවරීමට හෝ නොපැවරීමට ගරු නීතිපතිවරයාට ඇති අභිමතය යම් යම් සීමාවන්ට යටත් අතර එම තීරණය නිවැරදිව ගැනීම සඳහා පරීක්ෂණ කොමිෂන් සභා පනත යටතේ පත් කරන ලද මෙවන් කොමිෂන් සභාවක්, සිය සම්පූර්ණ බලය තුල ක්‍රියාකරමින් ගරු ජනාධිපතිවරයා විසින් මෙම කොමිෂන් සභාවට නියම කර ඇති සියලුම කරුණු පිළිබඳව විමර්ශනය කොට, පරීක්ෂා කොට ඉදිරි නීතිමය ක්‍රියාමාර්ග ගැනීමට හැකිවනු පිණිස වාර්තා කිරීම සිදු කළ යුතුයි.

මෙහිදී පරීක්ෂණ කොමිෂන් සභා පනතේ 7 (1) (ඇ) වගන්තිය කෙරෙහි අවධානය යොමු කිරීමේදී පෙනී යන්නේ මෙම කොමිසමට ශ්‍රී ලංකාව තුල පදිංචි ඕනෑම පුද්ගලයෙකු සාක්ෂිකරුවෙකු වශයෙන් කැඳවිය හැකි බවයි. එම බලයට සීමා පැනවීමට ගරු නීතිපතිතුමාට නෛතික බලයක් නැත.

මෙම කොමිෂන් සභාවට බලය පැවරෙන අධිකාරී බලපත්‍රයේ 3 වෙනි කරුණ යටතේ පැවරී ඇති ප්‍රධාන කාර්යයක් වන්නේ 2019 අප්‍රේල් මස 21 වෙනි දින සිදුවූ ත්‍රස්තවාදී ක්‍රියාවට සෘජුව හෝ වක්‍රව සම්බන්ධතාවයක් ඇති පුද්ගලයින් හා සංවිධාන හා ඒවායේ ක්‍රියා කලාපයන් හඳුනා ගැනීමයි. ඒ සඳහා එම ත්‍රස්තවාදී ක්‍රියාවට සම්බන්ධ වූ පුද්ගලයින් සමඟ සමීප ඇසුරක් පවත්වාගෙන ගිය තැනැත්තන්ගෙන් සාක්ෂි ලබා ගැනීමට හැකියාවක් ඇති විට එම අවස්ථාව හිතාමතාම මඟ හැරියහොත් එය මෙම කොමිසම විසින් කරනු ලබන බලවත් අතපසු කිරීමක් වියහැකි බව අපගේ මතයයි.

දැනට මෙම කොමිෂන් සභාව ඉදිරියේ ඉදිරිපත් වී ඇති සාක්ෂිවලට අනුව එම ත්‍රස්ත ප්‍රහාර එල්ල කළ එක් පුද්ගලයෙකු වන මොහොමඩ් කාසිම් මොහොමඩ් සහරාන් යන අයගේ බිරිඳ වන අබ්දුල් කාදර් ෆාතිමා හාදියා පමණයි ස්වයං ඝාතකයන් සමඟ සිටි පුද්ගලයන් අතරින් දැනට ජීවතුන් අතර සිටින සහ යොයා ගත හැකි එකම තැනැත්තිය වන්නේ එම තැනැත්තිය විසින් මෙම කොමිෂන් සභාවේ විමර්ශන ඒකකයට කර ඇති ප්‍රකාශය පරිශීලනය කිරීමේදී ඉහත කී ත්‍රස්ත ප්‍රහාරය සම්බන්ධයෙන් මෙම කොමිසම ඉදිරියේ දැනට නොමැති වැදගත් කරුණු බොහොමයක් ප්‍රකාශ කර ඇති බව පෙනී යන අතර එම කරුණු පිළිබඳව දැනුවත්ව සිටින මෙම කොමිසම ඇයගේ සාක්ෂිය ලබා නොගතහොත් එය අප වෙත පවරා ඇති අධිකාරී බලපත්‍රය නොසලකා හැරීමක් සිදු වන බව අපගේ මතයයි.

නීතියට අනුව අධිචෝදනා ගොනු කිරීමේදී ගරු නීතිපතිතුමාට යම් බලයක් පැවරී ඇත්තා සේම නීතියට අනුව මෙම කොමිසමට ද යම් බලතල ලබා දී ඇත. එකී බලතල යටතේ පැවරී ඇති වැදගත් කර්තව්‍යයක් වනුයේ පාස්කු ත්‍රස්ත ප්‍රහාරයට සම්බන්ධව සියලු කරුණු අනාවරණය කර ගැනීමයි. ඉහත කී ගරු නීතිපතිවරයාගේ බලතලත් මේ කොමිසමේ බලතලත් තුලනාත්මකව සංසන්දනය කර බැලුවද ඉහත කී අබ්දුල් කාදර් ෆාතිමා හාදියා යන තැනැත්තිය මෙම කොමිසම ඉදිරියේ සාක්ෂිකාරියක් වශයෙන් කැඳවීම සාධාරණ සහ යුක්ති සහගත බව අපගේ මතයයි. අවසානයේ මෙම කොමිසමේ ප්‍රධාන කාර්යයක් වන්නේ මෙම ත්‍රස්ත ප්‍රහාරයෙන් මිය ගිය සහ තුවාල ලැබූ තැනැත්තන් සහ ඔවුන්ගේ පවුල්වල අයට යුක්තිය සහ සාධාරණය ඉටු කිරීමයි. එකී අරමුණ මුදුන්පත් කර ගැනීම උදෙසා මෙම කොමිසම සම්පූර්ණ විමර්ශනයක් හා පරීක්ෂණයක් සිදු කිරීම අත්‍යාවශ්‍ය කරුණකි.

ඉහත කී කරුණු හේතුවෙන් අබ්දුල් කාදර් ෆාතිමා හාදියා යන තැනැත්තිය සාක්ෂිකාරියක් වශයෙන් මෙම කොමිසම ඉදිරියේ කැඳවීමට අප තීරණය කරමු.

මෙම නියෝගය මඟින් දැනට අත්අඩංගුවේ හෝ රක්ෂිත බන්ධනාගාරය භාරයේ සිටින සියලුම තැනැත්තන් මෙම කොමිසම ඉදිරියේ සාක්ෂිකරුවන් වශයෙන් කැඳවන බව ගම්‍ය නොවේ. කැඳවනු ලැබිය යුත්තේ කවුරුන්ද යන්න සියලු අදාළ කරුණු සළකා බලා අවස්ථානුකූලව මෙම කොමිසම විසින් තීරණය කරනු ලබන බව සටහන් කර තබමි.

මේ අවස්ථාවේදී අබ්දුල් කාදර් ෆාතිමා හාදියා යන තැනැත්තියගේ සාක්ෂිය නීතිපති දෙපාර්තමේන්තුවේ නිලධාරින් සහ අතිඋතුම් මැල්කම් කාදිනල් රංජිත් ආමිපාණන් වෙනුවෙන් පෙනී සිටින උගත් නීතිඥවරිය ඉදිරියේ ලබා ගන්නා බව පමණක් සටහන් කරමි.

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<u>අතිරේක සොලිසිටර් ජනරාල් ජනාධිපති නීතිඥ අජේෂා ජිනසේන මෙනවිය</u>

ස්වාමිනි ඔබතුමන්ලා විසින් අද දින උදෑසන කරන ලද නියෝගය ප්‍රකාරව ඇයගේ සාක්ෂිය ඔබතුමන්ලාගේ ගරු කොමිෂන් සභාවට සහාය වෙමින් මෙහෙයවන්නට මේ අවස්ථාවේදී අපේක්ෂා කරනවා ස්වාමිනි.

President Secretariat Copy

සුනිත් ජයපුන්දර මහතා
පොලිස්පති

"ජාතික තවහිත් ජමාත්" සංවිධානයේ සහරාන් වැනිම මෙරට මැරුම්කරුවන් බිහිකිරීමට ඇයුම් කරන බවට ඊළඟ කොරතුරුත් සම්බන්ධවෙයි

ජාතික තවහිත් ජමාත් (National Thowheeth Jama'ath - NTJ) සංවිධානයේ සාමාජික මොහොමඩ් කාසිම් මොහොමඩ් සහරාන් (Mohamed Kasim Mohamed Zahran) ඝාතනයත් සහරාන් කුටියේ අනුගාමිකයින් හා එක්ව කේරව තුළ මරාමරණ ඇරෙන ගුහාවර එල්ලූ කිරීමේ ප්‍රධානයෙක් වශයෙන බවට විශ්වාස කළ හැකි ප්‍රබල බුද්ධි අංශයක් විසින් කොරතුරු ලබා ඇත. මෙම ප්‍රකාර සඳහා දෙදෙර ප්‍රසිද්ධ තක්කෝලිත එල්ලී සහ ඉන්දියානු කොන්සල්ජනරල්ගේ කාර්යාලය අවලංගු කරන ලවට වැඩිදුරවත් සූදානම් කර ඇත. (කොළුපත්‍රය ඊද කොරතුරුවේ විවරණය 4 ඇමුණුම "අ")

ඉහත කොරතුරු හමුවන්ටමයේත් සිදුකරන්නා වූ ඊද මූලික පොලිසිකරණ වලදී ඝාතන සැලසුම් කිරීම සඳහා දායකවූ බවට කොරතුරුවේ සඳහන් පුද්ගලයින් අතුරින් කිහිපදෙනෙකු මෙම වෙවාවේ මුලදී අත්අඩංගුවට ගැනීමට කටයුතු කර ඇත.

- සහරාන් හාමිම් (Zahran Hashmil) සහ ගාහිඩ් (Shahid) ඝාත ඇවෑමෙන් 2018.12.26 මාළඹෑල්ල ප්‍රදේශයේ ආගමික ප්‍රකිනා වලට පහරදීමේ සිදුවීම් වලින් පසු ප්‍රදේශයෙන් පලාගොස් ඇතට අක්කරෙයිපත්තු සල්ලිපිල් ප්‍රදේශයේ රහස්ගතවෙමින් සැඟවී සිටින බවට කොරතුරු වාර්තා වී ඇත.

- රිල්වාන් (Rilwan) යන අය සහරාන්ගේ මාළු ව්‍යාපාරයේ සහ ඔහුගේ අතවරයෙන් ඝාතන සිදුකිරීමේ කියාවලිය වේදිකා කරපුලු කිරීමේ වගකීම දරන බවට විශ්වාස කරන බවට පොලිස් මූලස්ථානයේ විශේෂ පරීක්ෂණ කණ්ඩායම විසින් ලබාගත් කොරතුරු වාර්තා වී ඇත. එමෙන්ම රිල්වාන් (ජාතික හැඳුනුම්පත් අංක 903432624V) වරට තුඩුදුන්නෙකු ලෙස ද සඳහන් වේ. එමෙම ප්‍රදේශයේ 2017.03.10 දින කාන්තන්කුඩි ප්‍රදේශයේදී NTJ සංවිධානය හා තවත් ආගමික සංවිධානයක් අතර ඇතිවූ ගැටුමකින් අවූ ප්‍රදේශයෙන් පලාගොස් සැඟවී සිටින බවට දැනගැනීමට ඇත. මෙලෙස රහසිගතව සැඟවී සිටියදී ඊය සහෝදරයාගේ මරණය වූ විට පිටවී රිල්හිරවල, වැලුතු තරම්න් මතු ඇතැ. අක්කරෙයිපත්තුව, මුල්ලිකුඩිවිය, පුත්තලම, මාවනැල්ල, පන්නිතිය යන ප්‍රදේශයේ සංචාරය කර ඇති බවත්, දැනට සැලසිල්ල ප්‍රදේශයේ සිටින බවත් විශ්වාසයෙකුගේ නිවසේ රැඳීසිටින බවත් කොරතුරු ඇත.

රිල්වාන් හාජි කාදරසේ (පැය 2300 - පැය 0400ත්) අංක 309/බී, ෆරිනාස් පාර, සැමිරගම හරය සිදින. අධිවේගමාර්ග තුස්ගතහිර, අරියමිණුති යන ලිපිනයේ වෙත. පැමිණෙන බවද, එම ලිපිනයේ නොහුගේ පිරිස හා දරුවා රැඳීසිටින බවත් දැනගැනීමට ඇත.

- මිල්හාන් (Milhan) අයුත සඳහන් පුද්ගලයා "Mohamed Milhan" නමින් පහාස පාර ෆ්‍රීක්‍රමණ පවත්වාගොකයමින් ප්‍රහාරයල්ලේ සූකෂ්ප කාල පිරිසුම සඟ සබඳතා පවත්වන බවත්. 2019.03.15 දින කාපසිලන්කාවේදී කෘෂකාලික ලිපිවිනයෙනු විසින් ප්‍රසිද්ධි පළිදීමේ ලබන එල්ලකරන ලද ප්‍රහාරයෙන් පසු සිය සහාය කාල පිරිසුම විරුක්කාරයෙන් යාළුක්කාලික තැබීමෙන් අකයකාම්කයින් සිදුවෙමින ද්වේෂ සහගත තරුණ අදහස් දක්වා ඇති බවත් තීරිසෙන්ගත්ත ඒ ඇත.

සැකකරු ඉහිනා විදහාසිසෙන් අධ්‍යාපනය හදාරා ඇති හෙයකාමෙ මිල්හාන් සමඟිනා 4767785353 දරන්න ප්‍රජාවාරික අංකය භාවිතා කරන බවත්. සහරාන්ගේ ඝාතනයට පෙර් අතාගාමිකයින් සහරෙහි සමවදි සැකිලිකින් සකසුන සහස්ලකය බවත් පාර්තා වී ඇත.

මෙහෙම ප්‍රද සඳහාමේ හිවසු සැයකරුවන වන හුස්සේ පල්ලිය අසල කාන්තන්කුඩි 03 වැදිනි සැකසිදින් මොහොමඩ් මෝහිදීන් කෂ්ඨියන් Army Mohideen (ජාතික: 750823126V) නමැත්තෙකු පහරන් පමණ ගුරිව එබඳුකා පරවන්වා ඇත. ඒනත් 2019.03.10 දින කාන්තන්කුඩි ප්‍රදේශයේ ගැවුමින් පසු ප්‍රදේශයෙන් පලාගොස් සූලිගස්ලල් ඝාත. කාසිකුන්ත පාසල්වීදිය ප්‍රදේශයේ ස්ථානයක රහසියාකව එදිරිවිත බවටත් කුමාරතුන්ගම ඇති සමම ප්‍රදේශවාසී සිහුකාලා දිනවල රාජි කාලයේ සිහිද සහ දරුවන් ඇතිම යදහා කාන්තන්කුඩි 03 ඉතුන සඳහන් යුතු ලිපිනය වෙත පැමිණෙන බවට නිරීක්ෂණයවී ඇත.

අහරාන් යන අය සමාජ කාල සිහුම කෙරෙන් සිය අනුගාමිකයින් අතිශ්‍රද්ධාණය නිරිමේදී සමඟ තෙතොලිත පල්ලි සහ ඉස්ලාමික සංවිධාන කෙරෙහි ඉදිරිත් තරහාන්ත දෙපට කියාකිරීම සඳහා අනුගාමිකයන් යොමුවෙරැයි කියා ඇත. එමෙන්ම ඔවුන් ඉස්ලාම් ආගමට විරුද්ධ අය මරා දැමීමට ද පෙළඹවූ බවට විශ්වාස කරන බවත් ඒ ඇත.

- සහරාන් ඝාතනයෙන් පසු ඔහුගේ අනුගාමිකයින් විසින් ඝාතන සිදුකිරීමේ කියාවලිය වේදිකා කරපුලු කිරීමේ වගකීම දරන බවට විශ්වාස කරන බවට පොලිස් මූලස්ථානයේ විශේෂ පරීක්ෂණ කණ්ඩායම විසින් ලබාගත් කොරතුරු වාර්තා වී ඇත. එමෙන්ම රිල්වාන් (ජාතික හැඳුනුම්පත් අංක 903432624V) වරට තුඩුදුන්නෙකු ලෙස ද සඳහන් වේ. එමෙම ප්‍රදේශයේ 2017.03.10 දින කාන්තන්කුඩි ප්‍රදේශයේදී NTJ සංවිධානය හා තවත් ආගමික සංවිධානයක් අතර ඇතිවූ ගැටුමකින් අවූ ප්‍රදේශයෙන් පලාගොස් සැඟවී සිටින බවට දැනගැනීමට ඇත. මෙලෙස රහසිගතව සැඟවී සිටියදී ඊය සහෝදරයාගේ ඝාතනය වූ විට පිටවී රිල්හිරවල, වැලුතු තරම්න් මතු ඇතැ. අක්කරෙයිපත්තුව, මුල්ලිකුඩිවිය, පුත්තලම, මාවනැල්ල, පන්නිතිය යන ප්‍රදේශයේ සංචාරය කර ඇති බවත්, දැනට සැලසිල්ල ප්‍රදේශයේ සිටින බවත් විශ්වාසයෙකුගේ නිවසේ රැඳීසිටින බවත් කොරතුරු ඇත.

රිල්වාන් හාජි කාදරසේ (පැය 2300 - පැය 0400ත්) අංක 309/බී, ෆරිනාස් පාර, සැමිරගම හරය සිදින. අධිවේගමාර්ග තුස්ගතහිර, අරියමිණුති යන ලිපිනයේ වෙත. පැමිණෙන බවද, එම ලිපිනයේ නොහුගේ පිරිස හා දරුවා රැඳීසිටින බවත් දැනගැනීමට ඇත.

ඉහත සඳහන් කොරතුරු පිළිබඳව දැනගැනීමෙන් පසු, පරීක්ෂණ සිදුකරගෙන් යවකි.

2019.04.09

පොලිස්පති
ආරක්ෂක ලේකම්
නිලධාරී ප්‍රධානියා
නාවික හමුදා සේවය

සිටුවන : පොලිස්මූලස්ථාන / අමතරව අවශ්‍යතාවය දෙපාර්තමේන්තුවට

Appendix V

TOP SECRET
(EYES ONLY)

S - 05

SD/IG/IN/MLO/2456/2019

SDIG/NM/01/2019

P.O. Box 572

My No. MOD/CNI/SIS/REPORT/2[illegible] (Vol 04-2019)

Telephone 2430860-9, 2430870-9

Your No.

ආරක්ෂක අමාත්‍යාංශය, අංක 15/5, බාලදක්ෂ මාවත, කොළඹ 03, ශ්‍රී ලංකාව

பாதுகாப்பும் அமைச்சு, இல. 15/5, [illegible] கொழும்பு 03ஐ இலங்கை

MINISTRY OF DEFENCE No. 15/5, Baladaksha Mawatha, COLOMBO 03, SRI LANKA- ministry@defence.lk

STAFF
09 APR 2019
4184
POLICE HEADQUARTERS

09 APR 2019
කොළඹ 01

දිනය / திகதி / Date: 09th April 2019

Mr. Pujith Jayasundara
Inspector General of Police

FORMATION OF AN ALLEGED PLAN OF ATTACK

Information received by the State Intelligence Service (SIS) reveals that Sri Lanka based Zahran Hashmi of National Towheed Jamaat and his associates are planning to carry out a suicide terrorist attack in Sri Lanka shortly. It is also revealed that they are planning to target some important churches. According to the information, Indian High Commission in Sri Lanka is one of the targets among the planned attack and reconnaissance has already been conducted.

As per the SIS report, these individuals may adopt any of the following modes of attack:

- Suicide attack
- Weapon attack
- Knife attack
- Truck attack

Senior DIG Western Province & Field Force Headquarters
1503/18
09 APR 2019
Police Headquarters
Colombo - 01

Secrete

Furthermore, it is revealed that the following are the likely team members of the planned suicide terrorist attack.

TOP PRIORITY

- Zahran Hashmi
- Jal Al Quithal
- Rilwan
- Sajid Moulavi
- Shahid
- Milhan and others

STAFF 05/IGP/PS/OUT/2860/19

It is important to alert the Law Enforcement agencies to be vigilant concerning the information.

09/4/2019

A N SISIRA MENDIS
Chief of National Intelligence
for Secretary Defence

C:4(A)(I)
2020.07.17

TOP SECRET

SPP Jayasundara 25/10/2019

Pujith Jayasundara
Inspector General of Police

As per an input, Sri Lanka based Zahran Hashmi of National Towheed Jamaat and his associates are planning to carry out suicide terror attack in Sri Lanka shortly. They are planning to target some important churches. It is further learnt that they have conducted reconnaisance of the Indian High Commission Sri Lanka and it is one of the targets for the planned attack.

2. The input indicates that the terrorists may adopt any of the following modes of attack.

a. Suicide attack
b. Weapon attack
c. Knife attack
d. Truck attack.

C:4(B)
2019.11.05

It is also learnt that the following are the likely team members of the planned suicide terror attack.

i. Zahran Hashmi
ii. Jal Al Quithal
iii. Rilwan
iv. Sajid Moulavi
v. Shahid
vi. Milhan and others

4. The input may kindly be enquired into on priority and a feedback given to us.

SPP Jayasundara 25/10/2019

"ජාතික තවහිත් ජමාත්" නායක මොහොමඩ් සහරාන් විසින් මෙරට මරාගෙන මැරෙන ප්‍රහාරයන් දියත් කිරීමට සැලසුම් කරන බවට ලද තොරතුරක් සම්බන්ධව

ජාතික තවහිත් ජමාත් (National Thowheeth Jama'ath - NTJ) සංවිධානයේ නායක මොහොමඩ් කාසිම් මොහොමඩ් සහරාන් (Mohamed Cassim Mohamed Zahran) හෙවත් සහරාන් හාෂිම්. ඔහුගේ අනුගාමිකයින් හා එක්ව මෙරට තුළ මරාගෙන මැරෙන ප්‍රහාර එල්ල කිරීමේ සූදානමක් පවතින බවට විදේශ බුද්ධි අංශයක් විසින් තොරතුරු වාර්තා කර ඇත. මෙම ප්‍රහාර සඳහා මෙරට ප්‍රසිද්ධ කතෝලික පල්ලි සහ ඉන්දියානු මහකොමසාරිස් කාර්යාලය ඉලක්ක කරන බවට වැඩිදුරටත් සඳහන් කර ඇත. (යොමුකරන ලද තොරතුරේ පිටපත - ඇමුණුම "අ")

ඉහත තොරතුර සම්බන්ධයෙන් සිදුකරන ලද මූලික සොයාබැලීම් වලදී ප්‍රහාර සැලසුම් කිරීම සඳහා දායකවන බවට තොරතුරේ සඳහන් පුද්ගලයින් අතුරින් කිහිපදෙනෙකු මෙම සේවාවේ බුද්ධි මෙහෙයුම් වලදී හඳුනාගෙන ඇත.

- සහරාන් හාෂිම් (Zahran Hashmi) සහ ශාහිඩ් (Shahid) යන අයවරුන් 2018.12.26 මාවතැල්ල ප්‍රදේශයේ ආගමික ප්‍රතිමා වලට පහරදීමේ සිදුවීම් වලින් පසු ප්‍රදේශයෙන් පලාගොස් දැනට අක්කරෙයිපත්තු, මඩුවිල් ප්‍රදේශයේ රහසිගතව සැඟවී සිටින බවට තොරතුරු වාර්තා වී ඇත.

- රිල්වාන් (Rilwan) යන අය සහරාන්ගේ බාල සොහොයුරා හා ඔහුගේ මතවාදය වටා පිරිස් රැස්කිරීමේ නියමුවා ලෙස කටයුතු කළ කාත්තන්කුඩි පොලිස් වසමේ කුවෙයිකාරන් විදිය, මොහිදීන් පල්ලිය පාර, නව කාත්තන්කුඩි 06 ලිපිනයේ පදිංචි මොහොමඩ් කාසිම් මොහොමඩ් රිල්වාන් (ජා.හැ.අ.: 903432624V) බවට හඳුනාගෙන ඇත. මෙම පුද්ගලයා, 2017.03.10 දින කාත්තන්කුඩි ප්‍රදේශයේදී NTJ සංවිධානය හා තවත් ආගමික සංවිධානයක් අතර ඇතිවූ ගැටුමකින් පසු ප්‍රදේශයෙන් පලාගොස් සැඟවී සිටින බවට දැනගැනීමට ඇත. මෙලෙස රහසිගතව සැඟව සිටියද, සිය සහෝදරයාගේ මතවාදය වටා පිරිස් රැස්කිරීමට කටයුතු කරමින් ඔහු සමග අක්කරපත්තුව, කුලියාපිටිය, පුත්තලම, මාවතැල්ල සහ තිහාරිය යන ප්‍රදේශයේ සංචාරය කර ඇති බවත්, දැනට මඩුවිල් ප්‍රදේශයේ සිය සමීපතමයෙකුගේ නිවසේ රැඳිසිටින බවටත් තොරතුරු ඇත.

රිල්වාන් රාත්‍රී කාලයේදී (පැය 2300 - පැය 0400ත්) අංක 309/බී, ෆරිනාස් පාර, දෙවන ගරස් වීදිය, ආරියම්පති නැගෙනහිර, ආරියම්පති යන ලිපිනය වෙත පැමිණෙන බවත්, එම ලිපිනයේ, ඔහුගේ බිරිඳ හා දරුවා රැඳිසිටින බවටත් දැනගැනීමට ඇත.



- මිල්හාන් (Milhan) ලෙස සඳහන් පුද්ගලයා "Mohamed Milhan" නමින් සමාජ ජාල ගිණුමක් පවත්වාගෙනයමින් සහරාන්ගේ සමාජ ජාල ගිණුම සමග සබඳතා පවත්වන බවත්, 2019.03.15 දින නවයිලැන්තයේ කතෝලික ලබ්ධිකයෙකු විසින් මුස්ලිම් පල්ලියක් වෙත ඵල්ලකරන ලද ප්‍රහාරයෙන් පසු සිය සමාජ ජාල ගිණුම තිරන්තරයෙන් යාවත්කාලීන කරමින් අත්‍යාගමිකයින් පිළිබඳව ද්වේෂ සහගත ලෙස අදහස් දක්වා ඇති බවටත් තිරීක්ෂණය වී ඇත.

කල්මුණෙ සහිරා විද්‍යාලයෙන් අධ්‍යාපනය හදාරා ඇති මොහොමඩ් මිල්හාන් තැන්නා 0767788353 දරණ දුරකථන අංකය ගාවිතා කරන බවත්, සහරාන්ගේ මතවාදය ඔස්සේ යමින් අත්‍යාගමිකයින් කෙරෙහි වෛරී හැඟීමකින් කටයුතු කරන්නෙකු බවටත් වාර්තා වී ඇත.

එසේම, යුද හමුදාවේ හිටපු සෙබළෙකු වන අන්වර් පල්ලිය අසල, කාත්තන්කුඩි 03 පදිංචි බදුර්දීන් මොහොමඩ් මොහිදීන් හෙවත් Army Mohideen (ජා.හැ.අ.: 750683126V) නමැත්තෙකුද සහරාන් සමග සමීප සබඳතා පවත්වන බවත්, ඉහත 2017.03.10 දින කාත්තන්කුඩි ප්‍රදේශයේ ගැටුමින් පසු ප්‍රදේශයෙන් පලාගොස් කුඹුරුමුල පාර, පාසිකුඩා, වාලච්චේන ප්‍රදේශයේ ස්ථානයක රහසිගතව රැඳිසිටින බවටත් දැනගැනීමට ඇත. මෙම පුද්ගලයා සිකුරාදා දිනවල රාත්‍රී කාලයේ බිරිඳ සහ දරුවන් බැලීම සඳහා කාත්තන්කුඩි 03, ඉහත සඳහන් කළ ලිපිනය වෙත පැමිණෙන බවට තිරීක්ෂණයවී ඇත.

සහරාන් යන අය සමාජ ජාල ගිණුම ඔස්සේ සිය අනුගාමිකයින් අභිප්‍රේරණය කිරීමේදී මෙරට කතෝලික පල්ලි සහ ඉන්දියානු මහකොමසාරිස් කාර්යාල ඉලක්ක කරගන්නා ලෙස්ව නිශ්චිතව සඳහන් කළ බවට මේ වන තෙක් තිරීක්ෂණය වී නොමැති නමුත්, සියලු අන්‍යාගමිකයන් ඝාතනය කිරීම උතුම් ආගමික කරුණක් බවත්, අත්‍යාගමිකයින් විනාශකරමින් ඉස්ලාමය ප්‍රවර්ධනය කළයුතු බවටත් සඳහන් කරමින් 2016 වර්ෂයේ සිට සිය සමාජ ජාල සහ ආගමික දේශන හරහා අනුගාමිකයන් අභිප්‍රේරණය කරන බවට තිරීක්ෂණය වී ඇත.

ඉහත සඳහන් තොරතුරු පිළිබඳව රහසිගත පරීක්ෂණ සිදුකරමින් පවතී.

President Secretariat

C4 (5)

මගේ අංක - S/DIG /WP/364-9 /2019
ජෙෂ්ඨ නි.පො.ප / බස්නාහිර පළාත් කාර්යාලය
පොලිස් මූලස්ථානය,
කොළඹ 01.

2019.04. 8

ඉතා වැදගත්

නියෝජ්‍ය පොලිස්පති / කොළඹ දිසාව.
නියෝජ්‍ය පොලිස්පති / බස්නාහිර පළාත උතුර දිසාව.
නියෝජ්‍ය පොලිස්පති / බස්නාහිර පළාත දකුණ දිසාව.
නියෝජ්‍ය පොලිස්පති / කළුතර දිස්ත්‍රික්කය.

"ජාතික තව්හීත් ජමාත්" නායක මොහොමඩ් සහරාන් විසින් මෙරට මරාගෙන මැරෙන ප්‍රහාරයක් දියත් කිරීමට සැලසුම් කරන බවට ලද තොරතුරක් සම්බන්ධව.

ශ්‍රීරාමේ කරුණා සම්බන්ධයෙන් ආරක්ෂක අමාත්‍යාංශය මගින් සොමු කර ඇති ලිපියකට අදාළව පොලිස්පතිතුමාගේ අංක STAFF05/IGP/PS/OUT/2860/19 යටතේ 2019-04-09 වන දින මා වෙත සොමු කර ඇති ලිපිය හා බැඳේ.

එම ලිපියේ සඳහන් කර ඇති පරිදි ජාතික තව්හීත් ජමාත් (National Thowheeth Jama'ath – NTJ) සංවිධානයේ නායක මොහොමඩ් කාසිම් මොහොමඩ් සහරාන් (Mohamed Cassim Mohamed Zahran) හෙවත් සහරාන් හාසිම් මහතාගේ අනුගාමිකයින් හා එක්ව මෙරට තුළ මරාගෙන මැරෙන ප්‍රහාර එල්ල කිරීමේ සුදානමක් පවතින බවට බුද්ධි තොරතුරු වාර්තා වී ඇති බවත්, මෙම ප්‍රහාර සඳහා මෙරට ප්‍රසිද්ධ කතෝලික පල්ලි සහ ඉන්දියානු මහකොමසාරිස් කාර්යාලය ඉලක්ක කරන බවට තොරතුරු වාර්තා වී ඇති බවත් සඳහන් කර ඇත.

මේ සම්බන්ධයෙන් නිලධාරීන් දැනුවත් කර පොලිස් බුද්ධි අංශ නිලධාරීන් උපක්‍රමශීලීව යොදවා මෙම බුද්ධි තොරතුරු සම්බන්ධයෙන් පරීක්ෂා කර බැලීමට කටයුතු කළ යුතුය. එහිදී,

- ලිපියේ සඳහන් එම පුද්ගලයන්ගේ ජායාරූප ලබා ගෙන, එම ජායාරූප බුද්ධි අංශ නිලධාරීන් වෙත ලබාදී ඔවුන් අදාළ ඉලක්කගත ස්ථානවල හෝ ඒ අවට සිටදැයි පරීක්ෂා කළ යුතුය. තවද ඔවුන් නවාතැන්පොළවල් කුළී නිවාස ගත ආදියෙහි නවාතැන් ගෙන සිටියේ ඇත. එම ස්ථාන පරීක්ෂා කළ යුතුය.
- බුද්ධි තොරතුරු රහසිගතව තබාගෙන විමර්ශන කළ යුතු අතර, මහජනතාව අතිසී බය ගැන්වීමකට ලක්කළ යුතු නොවන බව අවධාරණය කරමි.
- කතෝලික පල්ලිවලට ආරක්ෂාව ප්‍රමාණවත් නොවන බවට වැටහෙන්නම් ඒ සඳහා හිසි ආරක්ෂක වැඩපිළිවෙලක් සකස් කර ක්‍රියාවට නංවිය යුතුය. එසේම එල්ලවිය හැකි ප්‍රහාර කල්වේලා ඇතිව හඳුනාගැනීමේ ක්‍රමයක් ක්‍රියාවට නංවිය යුතුය.
- එමෙන්ම මහජනයා වැඩිපුර රැුහැසෙන ස්ථානයන්හි වැඩිසටහන් / ප්‍රසංග වැනි කරුණු සඳහා අනුමැතිය ලබා දීමේදී ඒ සම්බන්ධයෙන් වැඩි අවධානයක් දිය යුතුය.

සන්දන මුණසිංහ
ජෙෂ්ඨ නිලධාරී පොලිස්පති
බස්නාහිර පළාත.

සන්දන මුණසිංහ
ජෙෂ්ඨ නිලධාරී පොලිස්පති
පොලිස්පතිතුමාගේ කාර්යාලය සහ බස්නාහිර පළාත
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042

PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

COUNTER TERRORISM

A

BILL

to make provision for the protection of Sri Lanka and the people of Sri Lanka from acts of terrorism and other offences associated with terrorism; for the prevention of terrorism and other offences associated with terrorism commited within or outside Sri Lanka; for the prevention of the use of Sri Lankan territory and its people for the preparation for terrorism outside Sri Lanka; to provide for the detection of acts of terrorism and other offences associated with terrorism; and to provide for the identification, apprehension, arrest, custody, detention, investigation, prosecution and punishment of any person who has committed an act of terrorism or any other offence associated with terrorism; for the repeal of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979; and for matters connected therewith or incidental thereto

Presented by the Minister of Foreign Affairs on 09th of October, 2018

(Published in the Gazette on September 17, 2018)

Ordered by Parliament to be printed

[Bill No. 268]

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 130.00 **Postage : Rs. 55.00**

This Bill can be downloaded from www.documents.gov.lk

L.D.—O. 2/2017.

AN ACT TO MAKE PROVISION FOR THE PROTECTION OF SRI LANKA AND THE PEOPLE OF SRI LANKA FROM ACTS OF TERRORISM AND OTHER OFFENCES ASSOCIATED WITH TERRORISM; FOR THE PREVENTION OF TERRORISM AND OTHER OFFENCES ASSOCIATED WITH TERRORISM COMMITED WITHIN OR OUTSIDE SRI LANKA; FOR THE PREVENTION OF THE USE OF SRI LANKAN TERRITORY AND ITS PEOPLE FOR THE PREPARATION FOR TERRORISM OUTSIDE SRI LANKA; TO PROVIDE FOR THE DETECTION OF ACTS OF TERRORISM AND OTHER OFFENCES ASSOCIATED WITH TERRORISM; AND TO PROVIDE FOR THE IDENTIFICATION, APPREHENSION, ARREST, CUSTODY, DETENTION, INVESTIGATION, PROSECUTION AND PUNISHMENT OF ANY PERSON WHO HAS COMMITTED AN ACT OF TERRORISM OR ANY OTHER OFFENCE ASSOCIATED WITH TERRORISM; FOR THE REPEAL OF THE PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT, NO. 48 OF 1979; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Preamble.

WHEREAS, terrorism has seriously threatened the sovereignty and territorial integrity of Sri Lanka, and has caused deaths and serious injury to the citizens of Sri Lanka, and has caused vast damage to public and private property of Sri Lanka, and has retarded national development:

AND WHEREAS, terrorism in its various forms and manifestations is a major threat to the peace and security of the community of nations; and, it is a foremost duty of the Government to protect Sri Lanka, its people, and property from possible future acts of terrorism and related acts:

AND WHEREAS, Sri Lanka is under obligation to enact laws to give domestic legal effect to international instruments relating to countering of terrorism to which Sri Lanka has become a signatory:

AND WHEREAS, the Government of Sri Lanka is committed to protect other sovereign nations and their people from the scourge of terrorism;

AND WHEREAS, Sri Lanka is committed and desirous of eradicating and preventing domestic and international terrorism through enforcing an effective system for the administration of criminal justice against terrorism, based on international norms and standards and domestic needs:

AND WHEREAS, the Government of Sri Lanka is mindful of the need to ensure just and fair application of the system for the administration of criminal justice against terrorism:

NOW THEREFOR BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:–

Short title.

1. This Act may be cited as the Counter Terrorism Act, No. of 2018.

PART I

APPLICATION OF THE ACT AND OFFENCES

Application of the Act.

2. (1) The provisions of this Act shall apply to–

(*a*) any citizen of Sri Lanka, who commits an offence under this Act, within or outside the territory of the Republic of Sri Lanka;

(*b*) any person who commits an offence under this Act –

(i) wholly or partly, in Sri Lanka;

(ii) in or over territorial waters of Sri Lanka;

(iii) in the airspace of Sri Lanka;

(iv) on-board or in respect of an aircraft or vessel registered in Sri Lanka or belonging to or used by the Government of Sri Lanka;

(v) wholly or partly within the office premises of a diplomatic mission of Sri Lanka, or a consular Post or officer of Sri Lanka, or at the residence of the Head of such diplomatic mission or consular post or at the residence of any diplomatic or consular officer or any other employee of such mission or post;

(vi) wholly or partly within the office premises situated outside Sri Lanka of a statutory board of the government of Sri Lanka or within the residence of an employee of such statutory board;

(*c*) any person, who commits an offence under this Act, within or outside the territory of the Republic of Sri Lanka in respect of –

(i) a citizen of Sri Lanka including a citizen deployed in an international peace-keeping or monitoring mission;

(ii) a property owned by the Government of Sri Lanka;

(*d*) any person who had been a citizen of Sri Lanka,and commits an offence under this Act, within or outside the territory of the Republic of Sri Lanka:

Provided however, provisions of this Act shall be enforced in respect of such person, only if he continues to have his habitual residence in Sri Lanka:

Provided further,that if he does not have his habitual residence in Sri Lanka, provisions of this Act, may be enforced with the concurrence of the foreign State of which he is a citizen; and

(*e*) any person who has his habitual residence in Sri Lanka, commits an offence under this Act, within or outside the territory of the Republic of Sri Lanka.

(2) The provisions of this Act shall not be enforced to identify, detect, apprehend, arrest, take custody of, detain, investigate or prosecute a person who commits any offence other than an offence within the meaning of this Act, notwithstanding the complexity, aggravated nature or seriousness of the consequences of such offence and the difficulties that may be associated with conducting investigations into such offence, in terms of the provisions of the Code of Criminal Procedure Act or other relevant written law.

3. (1) Any person, who commits any act referred to in subsection (2), with the intention of – Offence of Terrorism.

(*a*) intimidating a population;

(*b*) wrongfully or unlawfully compelling the government of Sri Lanka, or any other government, or an international organization, to do or to abstain from doing any act;

(*c*) preventing any such government from functioning; or

(*d*) causing harm to the territorial integrity or sovereignty of Sri Lanka or any other sovereign country,

shall be guilty of the offence of terrorism.

(2) An act referred to in subsection (1) shall be -

(*a*) murder, attempted murder, grievous hurt, hostage taking or abduction of any person;

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(*b*) endangering the life of any person other than the person committing the act;

(*c*) causing serious damage to property, including public or private property, any place of public use, a State or Governmental facility, any public or private transportation system or any infrastructure facility or environment;

(*d*) causing serious obstruction or damage to essential services or supplies;

(*e*) committing the offence of robbery, extortion or theft, in respect of State or private property;

(*f*) causing serious risk to the health and safety of the public or a section thereof;

(*g*) causing obstruction or damage to, or interference with, any electronic or automated or computerized system or network or cyber environment of domains assigned to, or websites registered with such domains assigned to Sri Lanka;

(*h*) causing obstruction or damage to, or interference with any critical infrastructure or logistic facility associated with any essential service or supply;

(*i*) causing destruction or damage to religious or cultural property or heritage; and

(*j*) causing obstruction or damage to, or interference with any electronic, analog, digital or other wire-linked or wireless transmission system including signal transmission and any other frequency based transmission system.

(3) Any action taken by any person in *good faith* in the lawful exercise of a fundamental right, or in pursuance of, or to give effect to a lawful order given to him, or in accordance with or to give effect to a judicial order, shall not amount to an offence under this Act.

Penalty for the offence of terrorism.

4. (1) Any person who-

(*a*) commits an offence under section 3 with the intention to cause death, and causes the death of any other person in the course of committing such offence, shall, upon conviction by the High Court be punished with life imprisonment;

(*b*) commits an offence under section 3 and causes the death of any other person in the course of committing such offence, of which the reasonable foreseeable consequence is the death of any other person, shall, upon conviction by the High Court be punished with imprisonment for a period which may extend to life imprisonment; or

(*c*) commits an offence under section 3 other than the offences referred to in paragraph (*a*) and (*b*), shall upon conviction by the High Court be liable to imprisonment of either description for a term not exceeding twenty years and to a fine not exceeding rupees one million.

(2) In addition to any other penalty imposed on such person under subsection (1) the court may order that all or any property of such person, be forfeited to the Republic.

Penalty for attempt to commit the offence of terrorism.

5. (1) Any person who attempts, abets or conspires to commit, an offence under section 3, shall upon conviction by the High Court, be liable to imprisonment of either description for a term not exceeding fifteen years and to a fine not exceeding rupees one million.

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(2) If the offence of terrorism is committed consequent to the commission of an offence under subsection (1), the offender shall be punished with the same penalty as if he has committed the offence of terrorism.

Other offences associated with terrorism.

6. Any person or a member of a group of persons acting under a common purpose or a member of a proscribed terrorist organization who commits jointly or severally -

(*a*) a specified terrorist act, referred to in section 7; or

(*b*) an aggravated criminal act associated with terrorism referred to in section 8; or

(*c*) terrorism associated acts referred to in section 9; or

(*d*) the acts of abetting terrorism referred to in section 10,

with the intention of, or having the knowledge of, or having reasonable grounds to believe that such conduct has the effect of, adversely affecting the territorial integrity, national security and defence of Sri Lanka or, intimidating or terrorizing a civilian population, shall be guilty of an offence under this Act.

Specified Terrorist acts.

7. Acts which constitute an offence under paragraph (*a*) of section 6 shall be as follows:-

(*a*) committing and attempting to commit the death, abduction, wrongful confinement, hostage taking, extortion, or criminal intimidation of any person, or any other offence under the Penal Code which shall be punished with a term of imprisonment of seven years or more;

(*b*) committing an offence under section 8 of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015, with regard to a victim of an offence under this Act or a witness to the commission of an offence under this Act;

(*c*) committing robbery, extortion, theft or mischief or other damage to property of the State including intellectual property and State owned, controlled, or regulated critical infrastructure, automated system, digital data-base and logistical networks associated with any essential service;

(*d*) without lawful authority, importing, exporting, manufacturing, collecting, obtaining, supplying, trafficking, possessing or using firearms, offensive weapons, ammunition, explosives or combustible or corrosive substances or any biological, chemical, electric or electronic or nuclear weapon.

Aggravated criminal acts associated with terrorism.

8. Acts which constitute an offence under paragraph (*b*) of section 6 shall be as follows:–

(*a*) committing–

(i) an offence against the State,punishable under sections 114 and 116 to 126;

(ii) an offence relating to Army, Navy and Air Force, punishable under sections 128 to 137;

(iii) the offence of human trafficking under section 360c,

of the Penal Code;

(*b*) committing an offence under the Prevention of Hostage Taking Act, No. 41 of 2000;

(*c*) committing any offence under the Computer Crimes Act, No. 24 of 2007;

(*d*) committing any offence under the Payment and Settlement Systems Act, No. 28 of 2005;

(*e*) committing any offence under the Foreign Exchange Act, No. 12 of 2017;

(*f*) committing any offence relating to the trading of listed securities within the meaning of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;

(*g*) committing any offence under the Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218);

(h) committing any offence under the Immigrants and Emigrants Act (Chapter 351).

Terrorism associated acts.

9. Acts which constitute an offence under paragraph (*c*) of section 6 shall be as follows:-

(*a*) committing any act, for organizing, preparatory to, or giving effect to any plan for the commission of an offence under this Act, outside the territory of the Republic of Sri Lanka;

(*b*) functioning or serving as a leader, member or a cadre of a proscribed terrorist organization or recruiting persons to be a member or cadre of a proscribed terrorist organization which is proscribed under the United Nations Act, No. 45 of 1968.

Acts of abetting terrorism.

10. Acts which constitute an offence under paragraph (*d*) of section 6 shall be as follows:-

(*a*) recruiting or enticing or encouraging persons to join a proscribed terrorist organizations or movements of which an objective is to commit an offence under this Act;

(*b*) joining, becoming a member of, supporting or representing a proscribed terrorist organization for the purpose of aiding and abetting the commission of an offence under this Act;

(*c*) harbouring, concealing, or in any other manner, wrongfully or illegally preventing, hindering or

interfering with the identification, arrest, custody or detention of a person knowing or having reasonable grounds to believe that such person has committed or has concerned in committing an offence under this Act;

(*d*) committing robbery, extortion or theft of property, or otherwise obtaining money or any property or other material, for or on behalf of a proscribed terrorist organization or any person who is preparing to commit an offence under this Act, or to aid such other person to commit an offence under this Act;

(*e*) recruiting, selecting, inciting, inducing, forceing, preaching or training, children to join a proscribed terrorist organization, or to commit an act of terrorism, or any other offence under this Act;

(*f*) voluntarily contributing money, property or material to a proscribed terrorist organization or any person, knowing or having reasonable grounds to believe that such money, property or material or the value thereof may be used to commit an offence under this Act;

(*g*) intentionally and unlawfully distributing or otherwise making available any information to the public, having intent to incite the commission of the offence of terrorism or other offence under this Act, and to cause the fear of such offence being committed, notwithstanding that such conduct does not expressly advocate such offence;

(*h*) voluntarily and willfully providing services to a proscribed terrorist organization for the purpose of the commission of an offence under this Act;

(*i*) voluntarily engaging in any illegal or unauthorized act for the purpose of gathering any confidential information, having the intention of supplying such information to a person who commits an offence under this Act;

(*j*) voluntarily and illegally or in an unauthorized manner, gathering confidential information, for the purpose of supplying such information to a person who commits an offence under this Act;

(*k*) voluntarily and illegally or unlawfully or in an unauthorized manner, gathering confidential information, for the purpose of supplying such information to a person who is conspiring, preparing, abetting, or attempting to commit an offence under this Act;

(*l*) providing to any other person any confidential information, knowing or having reasonable grounds to believe that such information will be used by such other person to conspire, abet, attempt or commit an offence under this Act:

Provided however, nothing published in *good faith* with due diligence for the benefit of the public or in national interest in registered print and electronic media, or in any academic publication, shall be deemed to be an offence under this section;

(*m*) providing any gratification, inducement, threat, force or any other form of influence to any other person for the purpose of encouraging, compelling or inciting such other person to commit an offence under paragraphs (*h*), (*i*) or (*j*), or providing a gratification in consideration of such other person having committed an offence in terms of paragraphs (*h*), (*i*) or (*j*).

11. Any person who- Penalty for offence under section 6.

(*a*) commits an offence under section 6 with the intention to cause death, and causes the death of any other person in the course of committing such offence shall, upon conviction by the High Court be punished with life imprisonment; or

(*b*) commits an offence under section 6 and causes the death of any other person in the course of committing such offence of which the reasonable foreseeable consequence is the death of any other person shall, upon conviction by the High Court be punished with imprisonment for a period which may extend to life imprisonment and be liable to a fine not exceeding rupees one million; or

(*c*) commits an offence under section 6 other than an offence referred to in paragraph (*a*) or (*b*) shall upon conviction by the High Court be punished with imprisonment of either description, for a term not exceeding fifteen years and be liable to a fine not exceeding rupees one million.

12. Any person who attempts, abets or conspires to commit an offence under section 6, shall upon conviction by the High Court be punished with relevant punishment provided for in section 11. Penalty for attempting, etc. for an offence under section 6.

13. Any person who- Failure to provide information to be an offence.

(*a*) knowing or having reasons to believe that any other person-

(i) has committed an offence under this Act; or

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(ii) is making preparation, attempting, abetting or conspiring to commit an offence under this Act,

fails to report to the officer in charge of the nearest police station; or

(*b*) having in his possession any information relating to the whereabouts of any person of whom he knows that has committed an offence of terrorism or an offence associated with terrorism, fails to provide such information or provides false or misleading information, to a police officer who questions him,

shall be guilty of an offence under this Act and upon conviction by the High Court be liable to imprisonment of either description for a term not exceeding three years and to a fine not exceeding rupees five hundred thousand.

Disobeying lawful orders to be an offence.

14. Any person who –

(*a*) violates or acts in contravention of a lawful directive or order made in terms of this Act; or

(*b*) willfully fails or neglects to comply with a direction issued in terms of this Act; or

(*c*) fails to provide information or provides false or misleading information in response to a question put to him by a police officer conducting an investigation under this Act; or

(*d*) willfully prevents or hinders the implementation of a lawful order or directive issued under this Act; or

(*e*) prevents or obstructs enforcement of provisions of this Act,

commits an offence, and shall be liable to a term of imprisonment not exceeding two years and to a fine not exceeding rupees five hundred thousand.

Offences to be cognizable.

15. Any offence under this Act shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure Act and shall be investigated, prosecuted and punished in terms of the provisions of this Act and other applicable laws.

PART II

INVESTIAGATION OF OFFENCES

Who may conduct investigations.

16. An officer in charge of a Police Station or any other police officer authorized by an officer in charge of a police station, shall be entitled to commence and conduct investigation, of an offence under this Act or an act preparatory to the commission of an offence under this Act:

Provided however, where any person commits an offence under this Act in the presence of a police officer, or a person suspected of having committed an offence is arrested in the immediate aftermath of committing an offence, it shall be lawful for any police officer to arrest such person to question and commence the investigation:

Provided further, such police officer shall forthwith inform the officer in charge of the relevant police station, of the commencement of such investigation, and conduct the investigation subject to his instructions.

Arrest by a police officer and other officers.

17. Any police officer , an officer or member of the armed forces or a coast guard officer, may arrest without a warrant, any person-

(*a*) who commits in his presence, or whom he has reasonable grounds to believe, has committed, an offence under this Act; or

(*b*) who has been concerned in committing an offence under this Act; or

(*c*) in respect of whom he receives information or a complaint which he believes to be reliable that a person has committed or concerned in committing an offence under this Act; or

(*d*) who is fleeing from Sri Lanka with the intention of evading arrest or is evading arrest after committing an offence under this Act; or

(*e*) who is violating the conditions of bail, subject to which such person has been released, being a suspect for the commission of an offence under this Act.

Procedure when arrest is carried out by an officer other than a police officer.

18. (1) A person arrested by an officer other than a police officer, shall be produced before the officer in charge of the nearest police station or of a police officer designated from time to time, in that behalf by the Inspector General of Police, without unnecessary delay, and in any event within a period not exceeding twenty four hours:

Provided however, where such person has been arrested outside the territory of the Republic of Sri Lanka or on board of any aircraft or vessel, the period of time necessary for the journey from place of arrest to the relevant police station, shall be excluded in calculating such twenty-four hours period:

Provided further, if producing the person being arrested in terms of the preceding provisions of this subsection to the officer in charge of the nearest police station is not practicable due to reasons beyond the control of the person who carried out the arrest, the custody of such person shall be given to the officer in charge of any police station.

(2) The officer who carried out the arrest shall as soon as practicable, notify the arrest to a commissioned officer or any other officer of a higher rank, who has been authorized to receive such information.

(3) Subject to the provisions of sections 22 and 23, a person so arrested may be questioned and further searched by the commissioned officer or the other officer referred to in subsection (2) where it is necessary to protect the life of any person, to prevent any act of terrorism or to preserve evidence relating to an offence committed under this Act.

(4) Such Commissioned officer or other officer shall forthwith inform of such arrest to the officer in charge of the nearest police station or to a police officer designated by the Inspector General of Police in that behalf.

(5) At the time of taking the person so arrested into the custody of the officer in charge of the police station as provided for in this section, the officer who carried out the arrest, shall make a statement to such officer in charge, setting out the circumstances relating to the arrest carried out by him.

(6) Such officer shall also handover to such officer in charge, all items that may have been found in the possession of the suspect, or found from the place of arrest.

Procedure when arrest is carried out by a police officer.

19. (1) (*a*) Any person arrested by a police officer, shall without unnecessary delay, be produced before the officer in charge of the police station to which such police officer is attached to.

(*b*) Where such production is not practicable, the person arrested shall be produced before the officer in charge of the nearest police station.

(2) It shall be lawful for a police officer to obtain the assistance of a member of the armed forces or a coast guard officer to carry out an arrest in terms of this Act, or to obtain such assistance to take the arrested person to a police station.

(3) Every practicable measure shall be taken to protect an arrested person from any physical harm.

Power to stop and search.

20. (1) Where there is reasonable grounds to arrest any person under section 18 or section 19, a police officer, a

member of any armed force or a coast guard officer (hereinafter in this Part referred to as the "arresting officer") may–

(*a*) stop and search any person, vehicle, vessel, train or aircraft;

(*b*) question any person;

(*c*) enter and search any premises or land; and

(*d*) take into custody any document, thing or article,used, derived out of, connected with or, concerned in committing or, reasonably suspected of being used, derived out of, connected with, or concerned in committing an offence under this Act.

(2) The exercise of the powers under this section shall be notified to relevant parties in terms of the provisions of section 25.

(3) Any such document, thing or article so taken into custody, shall as soon as practicable be produced before the officer in charge of the police station to which the relevant police officer is attached, or be produced before the officer in charge of the nearest police station.

(4) The officer in charge of the police station referred to in subsection (3) shall produce a report in that regard to the Magistrate before whom the relevant suspect be produced who shall make an appropriate order with regard to the possession or release of the documents, things or articles so taken into custody.

21. (1) The arresting officer shall inform the person being arrested, (hereinafter in this part referred to as the "suspect") at the time of the arrest– Information to be provided at the time of arrest.

(*a*) the identity of the arresting officer;

(*b*) the offence alleged to have been committed by the suspect;

(*c*) the right of access of the person to an Attorney-at-Law as provided for in written law.

(2) Every reasonable measure shall be taken to convey such information in Sinhala, Tamil or English languages, whichever language understood by the suspect.

(3) Where it is not practicable to convey the information to the suspect as specified in subsection (1) at the time of arrest, such information shall be conveyed in a language understood by him, as soon as practicable.

22. Every arrest shall be carried out, with due regard to the privacy of the person being arrested. Every possible measure shall be taken to ensure that the arrest of a female suspect is carried out by a female arresting officer, or in the presence of a female officer. Arrest to be carried out with due regard to privacy.

23. (1) Every possible measure shall be taken to ensurethat the questioning of any female is carried out by a female arresting officer or in the presence of a female officer. Searching and questioning of females.

(2) The search of a female, shall necessarily be conducted by a female officer.

24. (1) The officer in charge of the police station in which the suspect is detained or a police officer authorized by such officer in charge, shall examine such suspect, to see whether he has any injury that may be visible. Medical examination of the suspect.

(2) If the suspect has any injury that may be visible, the officer in charge of the police station shall cause such person, to be examined by a judicial medical officer or by a government forensic medical specialist and obtain a report.

(3) Unless there is reason for medical treatment, the judicial medical officer or the government forensic medical specialist shall return the suspect to police custody, without any delay.

Notification of the arrest.

25. (1) Any arresting officer who arrests a suspect in terms of the provisions of this Act, shall, if the *next of kin* or an adult member of the family of the suspect is present at the time of arrest, issue to such person, as soon as practicable and not later than twenty four hours from the arrest, an acknowledgement of the arrest and custody pertaining to such suspect, in the format set out in the First Schedule to this Act.

(2) Such acknowledgement shall include–

(*a*) the date, time and place of arrest;

(*b*) reasons for the arrest;

(*c*) the location of custody or detention;

(*d*) the name, identification number and rank of the arresting officer; and

(*e*) any other information as may be necessary for the *next of kin* of the suspect, to have reasonable access to him, without prejudice to the conduct of investigations.

(3) If such a person is not present, the arresting officer shall inquire from the suspect, the identity and whereabouts of a person to whom the acknowledgement referred to in subsection (1) shall be served, and if the suspect provides such information, every possible step shall be taken to serve the acknowledgement on such person. A copy of the said acknowledgement shall be served on the suspect.

(4) The officer in charge of the police station wherein the suspect is detained shall, as soon as practicable, and in any event not later than twenty four hours of the arrest, notify the Human Rights Commission of such arrest and detention, substantially in the format set out in the Second schedule to this Act, and notify the Inspector General of Police or his authorized representative, substantially in the format set out in the Third Schedule to this Act.

(5) Such notification shall include–

(*a*) the date, time and place of arrest;

(*b*) reasons for the arrest;

(*c*) the location at which the suspect is being held in detention;

(*d*) the name, identification number and rank of the arresting officer;

(*e*) any other information that would enable the Human Rights Commission to have prompt access to the suspect; and

(*f*) any other information the Human Rights Commission may call for, in order to determine whether such arrest and detention has infringed the fundamental rights of the relevant person.

Central Data-Base and Register.

26. (1) The Inspector General of Police shall establish and maintain a Central Data Base and Register, which contains information with regard to each arrest, detention, remanding, grant of bail, discharge, prosecution, conviction or acquittal and punishment of persons arrested under this Act.

(2) Such Data Base and Register shall also include such other information required to determine the–

(*a*) lawfulness of the arrest, custody and detention;

(*b*) lawfulness of the deprivation of liberty of the suspect; and

(*c*) the need for continued detention or remand.

(3) The Inspector General of Police shall provide information included in such Data Base and Register, to the Human Rights Commission, wherever the Human Rights Commission so requests.

(4) The information received under subsection (3), shall be used only for the purposes of giving effect to the objectives of the Human Rights Commission.

(5) It shall be the duty of the Human Rights Commission to ensure that no person shall use the information received under subsection (3) in such manner that may be prejudicial to the on-going investigations.

Production before a Magistrate.

27. (1) A suspect who has been arrested and detained by a police officer in terms of this Act, shall be produced before any Magistrate not later than forty eight hours following the arrest:

Provided however, where the arrest has been carried out, outside the territory of the Republic of Sri Lanka or on board any aircraft or vessel, the period of time necessary for the journey from place of arrest to the relevant Magistrate shall be excluded in calculating such forty eight hours.

(2) Where, by the time the suspect is produced before a Magistrate–

(*a*) a valid Detention Order has been issued in terms of section 31, and is placed before the Magistrate for his inspection, the Magistrate shall make an order to give effect to such Detention Order; or

(*b*) a Detention Order has not been issued or such a Detention Order has not been placed before the Magistrate, the Magistrate shall–

(i) if the officer in charge of the relevant police station makes an application seeking an order

to remand the suspect, based on grounds that the Magistrate deems reasonable in the circumstances, order that the suspect be placed in remand custody; or

(ii) if the officer in charge of the relevant police station requests or has no objection to bail being granted, release the suspect on bail under the provisions of Bail Act, No.30 of 1997, upon conditions to be stipulated by such Magistrate, excluding personal bail; or

(iii) discharge the suspect, if the officer in charge of the relevant police station so requests.

(3) The Magistrate before whom the suspect is produced, shall–

(*a*) personally see the suspect, and look into his well-being and welfare through a private interview; and

(*b*) record any comment the suspect may provide.

(4) For the purpose of this section "private interview" means proceedings, either in open court or in Magistrate's chamber in the absence of any police officer who may have participated in the arrest, or who has investigated into the offence, alleged to have been committed by the suspect.

Magistrate to direct the suspect to a forensic medical examination.

28. (1) Where the Magistrate is of the opinion, that the suspect may have been subjected to torture, after taking into account any complaint made by the suspect and any representation made by the arresting officer or officer in charge of the relevant police station, in defence thereto, the Magistrate may direct that the suspect be produced before a government forensic medical specialist, for medical examination, and a report be submitted by such medical specialist to the Magistrate.

(2) Where the report of the government forensic medical specialist reveals that there is a probability of the suspect have been subjected to torture, the Magistrate shall, after giving an opportunity to the suspect and the arresting officer or officer in charge of the police station to be heard,–

(*a*) direct the suspect for necessary treatment; and

(*b*) order that the suspect be placed in remand.

(3) Where the Magistrate orders that the suspect be placed in remand, police officers who previously had access to the suspect shall not have access to the suspect.

(4) The investigation in respect of such suspect shall be continued by such other police officers as directed by the Inspector General of Police.

(5) The Magistrate shall also direct the Inspector General of Police to commence an investigation into the alleged torture to enable the Attorney General to institute criminal proceedings against the person who committed the alleged torture.

Grant of bail by the High Court on exceptional grounds.

29. Subject to the provisions of section 30, no person in remand shall be released by a Magistrate on bail, except under the authority of an Order made by a Judge of the High Court, on exceptional grounds.

Maximum period of remand.

30. (1) No person shall be held in remand for a period exceeding six months from the date of his arrest without instituting criminal proceedings:

Provided however, the period of remand may be extended on an order of a Judge of the High Court, on an application made by the Attorney General:

Provided further, the maximum cumulative period of extension, shall not exceed six months.

(2) If criminal proceedings are not instituted within the period referred to in subsection (1), the Magistrate shall release the suspect on bail, on conditions to be stipulated by the Magistrate.

Detention Orders.

31. (1) (*a*) An officer in charge of a police station who seeks a detention order to detain a suspect for any purpose specified in subsection (2), may make an application to a Deputy Inspector General of Police, with the recommendation of the officer in charge of the relevant police division.

(*b*) If such Deputy Inspector General of Police is satisfied of the existence of reasonable grounds to believe that the suspect has committed or has concerned in committing an offence under this Act, he may issue a Detention Order substantially in the format specified in the Fourth Schedule to this Act, authorizing the detention of the suspect in an approved place of detention under approved conditions of detention.

(*c*) No detention order shall be issued for a period exceeding two weeks, at a time.

(2) A Detention Order under subsection (1), shall include reasons for the issuance thereof, and shall be issued solely for following purposes, where it is necessary:–

(*a*) facilitating the conduct of the investigations in respect of the suspect;

(*b*) obtaining material for investigations and potential evidence relating to the commission of an offence under this Act;

(*c*) questioning the suspect in detention; and

(*d*) preserving evidence pertaining to the commission of an offence under this Act, for such reasons to be recorded in the Detention Order.

(3) Where a Detention Order under this section has been issued at the time when the relevant suspect is produced before a Magistrate under section 27, a certified copy of such Detention Order shall be placed before the Magistrate for inspection.

(4) A copy of every Detention Order under this section shall be served on the suspect being detained and the acknowledgement by the suspect shall be obtained and filed in the relevant Magistrate Court.

(5) A copy of the Detention Order shall be served on the *next of kin* or an adult family member of the suspect and the provisions of section 25, shall *mutatis mutandis*, apply to the manner of serving such copy.

(6)The Minister shall, on the recommendation of the Inspector General of Police, by Order published in the *Gazette*, specify such number of places as "approved places of detention" for the purpose of this section.

(7) The Minister shall, in consultation with the Inspector General of Police and the Human rights Commission of Sri Lanka, specify by Order published in the *Gazette*, such conditions of detention as "approved conditions of detention" for the purpose of this section.

Visit to place of detention by Magistrate.

32. (1) A Magistrate before whom a suspect has been produced and detained under the authority of a Detention Order shall, without giving any advance notice to the authority in charge of such place of detention-

(*a*) visit the place of detention of such suspect; and

(*b*) interview the suspect and look into his well-being.

(2) It shall be the duty of the authority in charge of any place of detention to provide prompt and unimpeded access to the Magistrate.

(3) If the Magistrate observes that the suspect may have been subjected to torture or the suspect alleges that he was tortured, the Magistrate shall make order, for the suspect to be produced for examination by a government forensic medical specialist, and to submit the report to him.

(4) After giving the suspect and the relevant police officer or officers an opportunity to be heard, if the Magistrate is satisfied that there is reasonable grounds to believe that the suspect may have been tortured, he shall act in terms of subsections (2), (3), (4) and (5) of section 28.

Notification of detention to the Human Rights Commission.

33. (1) The officer in charge of the police station wherein a suspect is detained shall notify the Human Rights Commission of Sri Lanka of such detention, as soon as practicable but in any event not later than seventy two hours from the commencement of detention.

(2) A copy of the Detention Order shall be served on the Human Rights Commission, as soon as practicable.

Human Rights Commission to visit an approved place of detention.

34. An authorized officer of the Human Rights Commission, shall be entitled, without giving any advance notice to-

(*a*) enter and examine any approved place of detention;

(*b*) call for and inspect detention registers, Detention Orders and other books and documents required to be maintained at such place; and

(*c*) interview persons being detained at such place:

Provided however, officer of the Human Rights Commission shall not be entitled to examine notes of investigations and recorded statements of witnesses or, of other persons.

Magistrates entitled to visit any place of detention.

35. Any Magistrate shall be entitled, without advance notice, to enter an approved place of detention, inspect such place of detention, registers, Detention Orders and other books and documents required to be maintained at such place, and interview persons being detained at such place.

Detention beyond two weeks only with approval of a Magistrate.

36. (1) Where it is necessary to detain a suspect in terms of a Detention Order made under section 31 beyond a period of two weeks, the officer in charge of the relevant police station shall file a confidential report in the Magistrate Court citing-

(*a*) the allegation against the suspect;

(*b*) the findings of investigation; and

(*c*) reasons which require further detention,

and obtain the approval of the Magistrate for such continued detention.

(2) The Magistrate shall ensure the confidentiality of the report so filed.

(3) The suspect or his Attorney-at-Law shall be entitled to obtain such information that may be necessary to object to the extension of the period of detention.

(4) The submissions of the police officer seeking extension of the period of detention and the objections raised by the suspect or his Attorney-at-Law for such extension, shall be recorded by the Magistrate.

(5) The Magistrate may order the extension of the period of detention or refuse such extension, giving reasons therefor.

(6) (*a*) Where the Magistrate refuses to grant the extension of the Detention Order he shall inquire whether there exists any justifiable reason to remand the suspect.

(*b*) After the inquiry, if the Magistrate is of the opinion that there exists any reasonable ground to believe that the suspect has committed an offence under this Act, the suspect shall be placed in remand custody.

(*c*) Where there is no reasons to believe that the suspect has committed an offence under this Act, he shall be released from detention.

(7) The proceedings under this section shall be held *in-camera*.

Maximum period of detention under Detention Orders.

37. No suspect shall be detained for a period exceeding eight weeks under Detention Orders made under section 31.

Appeal against the extension or refusal to extend detention.

38. (1) The police officer or the suspect may make an appeal against any grant or refusal of extension of a Detention Order under section 36, to the relevant Magistrate Court.

(2) The Magistrate shall immediately refer such appeal to the High Court having Jurisdiction over the area in which the relevant Magistrate Court is situated, in a confidential cover along with the confidential report filed by the police officer and the record of the proceedings.

(3) It shall be the duty of such High Court to dispose of any such appeal within three weeks from the date of filing such appeal, giving opportunities to the police, the Attorney General and the Attorney-at-Law representing the suspect, of being heard.

(4) The High Court may -

(*a*) affirm the order made by the Magistrate; or

(*b*) revise the order of the Magistrate by-

(i) granting the extension of Detention Order; or

(ii) placing the suspect in remand.

Suspect to be produced before a Magistrate.

39. (1) During the pendency of a Detention Order, the suspect shall be produced before a Magistrate once in every fourteen days.

(2) The Magistrate shall comply with the provisions of section 27 upon the suspect being produced before the Magistrate.

(3) Upon completion of the period of detention under a Detention Order, the suspect shall be produced before a Magistrate.

(4) Where upon such production the officer in charge of the relevant police station or any other police officer authorized by him informs the Magistrate that-

(*a*) there exists a well-founded grounds to believe that the suspect has committed an offence under this Act and that further investigations are being conducted; or

(*b*) the investigations have been completed and that the Attorney General has been, or is to be requested to consider the institution of criminal proceedings against the suspect,

the Magistrate shall direct that the suspect be detained in remand custody.

Police officer to have access to suspect in remand.

40. A police officer conducting an investigation under this Act, shall be entitled , unless the Magistrate otherwise orders to-

(*a*) have access to a suspect placed in remand custody in terms of this Act, and interview the suspect;

(*b*) record his statements,with the permission given by the Magistrate on an application made to such Magistrate in that behalf;

(*c*) take the suspect out of the remand for the purpose of conducting further investigations under the authority of an order made by a Magistrate:

Provided however, an officer of the Prisons Department shall be present at every instance referred to above.

Board of Review for Administrative relief from Detention Orders.

41. (1) There shall be established a Board of Review for granting administrative relief for appeals against Detention Orders made under section 31.

(2) The Board of Review shall consist of-

(*a*) the Secretary to the Ministry of the Minister who shall be the Chairperson of the Board; and

(*b*) two other persons appointed by the Minister, of whom each person has gained professional eminence and experience in the fields of-

(i) criminal investigation and criminal justice; and

(ii) human rights.

(3) Any suspect or an Attorney-at-Law on his behalf, who is aggrieved by the decision taken to arrest and detain him under a Detention Order made under section 31, may appeal to the Board of Review, to review such Order.

(4)The Board of Review shall, consider the appeal, taking into account the grounds stated in the appeal and the reasons for requesting such Order based on the submissions made by the officer in charge of the relevant police station with the

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assistance of the officer who requested for the Detention Order, and the Deputy Inspector General of Police who issued the Detention Order and make a ruling on such Order.

(5) Such ruling may contain directions-

(*a*) to continuously detain the appellant suspect; or

(*b*) to terminate the detention of the suspect and to produce the suspect before a Magistrate and to request that the suspect be placed in remand; or

(*c*) to produce the suspect before a Magistrate, so that bail be granted to the suspect.

(6) Such ruling shall be made within two weeks of the appeal and shall contain reasons therefor, and be communicated to the appellant and to the Deputy Inspector General of Police who had issued the Detention Order and to the officer who had requested the Detention Order.

Detention during remand.

42. (1) Where the officer in charge of a police station receives information which he believes to be true, that a person remanded under this Act—

(*a*) is committing an offence under this Act;

(*b*) is making preparations or attempting to commit an offence under this Act;

(*c*) is attempting to escape from remand custody; or

(*d*) had committed an offence under this Act prior to being arrested and such officer in charge was unaware of such fact,he shall report such information to the relevant Magistrate.

(2) The Magistrate shall immediately inquire into such information and at the conclusion of the inquiry, if the Magistrate is satisfied that, the officer in charge of the police station had acted in *good faith* and the allegation against the suspect made by the police, appears to be well founded, and where the Magistrate deems it expedient to keep the suspect under detention, he may on the production of a Detention Order issued under this Act, permit the officer in charge of the police station to-

(*a*) take custody of the suspect;

(*b*) remove the suspect from remand; and

(*c*) have such suspect detained in terms of such Detention Order.

(3) The detention of a suspect under this section shall–

(*a*) be for a period specified by the Magistrate;

(*b*) be subject to the provisions of this Act applicable for a suspect detained under this Act; and

(*c*) be reviewed by the Magistrate in every fourteen days.

(4) The transfer of the suspect from remand custody to detention, shall be notified to the Human Rights Commission.

Release from remand custody and detention.

43. (1) A suspect arrested under this Act, shall only be released from remand custody or detention, after production before a Magistrate and subject to any condition that the Magistrate may impose.

(2) The release of the suspect shall be notified to the Human Rights Commission by the officer in charge of the relevant police station, giving adequate time as may be necessary for the Human Rights Commission to send an officer authorized in writing, to be present when the release takes place.

44. An Attorney-at-Law representing a suspect under this Act, shall have the right to access to such person in police custody, and to make representations, as provided for in written law.

Right of an Attorney-at-Law to represent a suspect.

45. The provisions of section 115, 116 and 120 of the Code of Criminal Procedure Act shall have no application in relation to a suspect under this Act.

Certain sections of the Code of Criminal Procedure Act not to apply.

46. Subject to the Provisions of this Act and section 45, the provisions of the Code of Criminal Procedure Act, shall, *mutatis mutandis*, apply to any legal proceeding under this Act.

Application of the Code of Criminal Procedure Act.

47. Notwithstanding the provisions of section 9 of the Code of Criminal Procedure Act, the investigation and proceedings in respect of a suspect under this Act who had previously been produced before a Magistrate, shall be held in the Magistrate Court in which such Magistrate was presiding at the time the suspect was so produced before such Magistrate.

Proceedings before Magistrate Court.

48. (1) The place of detention or remand of the suspect, detained or remanded under the provisions of this Act, shall be provided with the requirements necessary for humane treatment, and such place of detention shall be accessible to the family members of the suspect, in detention or remand, and to his Attorney-at-Law with the prior permission obtained from the officer in charge of such place of detention or prison.

Suspect to be treated humanely.

(2) Where it appears to the Human Rights Commission or the Magistrate, at an inspection of the place of detention or remand under the provisions of this Act that the place of detention or remand, does not confirm to the requirements referred to in subsection (1), such fact shall be informed -

(*a*) to the Inspector General of Police in cases of detention; or

(*b*) to the Superintendent of the Prisons in cases of remand.

(3) It shall be the duty of the Inspector General of Police or the Superintendent of the Prisons, to take steps to the greatest extent possible, to provide whatever necessary for humane treatment.

(4) The officer in charge of the police station or the place of detention wherein a suspect is kept in custody shall,where the suspect is –

(*a*) detained for a period exceeding one month; or

(*b*) placed in remand, pending commencement of the trial; or

(*c*) placed in remand, pending conclusion of the trial,

issue a notification to the suspect and to the Human Rights Commission, containing following information:–

(i) the grounds on which, the extension of the period of detention or remand was ordered;

(ii) in situations where the suspect is being detained, without prejudice to the on-going investigations, information needed for the investigations to be conducted diligently and expeditiously; and

(iii) in situations where the suspect is being held in remand custody, reasons as to why institution of criminal proceedings cannot be taken place immediately, or the trial cannot be commenced immediately or the trial cannot be concluded expeditiously, as the case may be.

PART III

POWERS AND DUTIES OF CERTAIN OFFICERS UNDER THIS ACT

Powers of Police officers under this Act.

49. For the purpose of conducting investigations into offences under this Act and offences under any other written law that may have been committed in the course of the same transaction, or to prevent the commission of any such offence, police officers shall be vested with the powers specified in this Part in addition to any power conferred on them by the Police Ordinance or Code of Criminal Procedure Act or any other relevant written law, to the extent that may be necessary for investigating and preventing offences under this Act.

Duty of certain officers to prevent the commission of offences under this Act.

50. (1) It shall be the duty of every police officer and any member of an armed force and a coast guard officer to take necessary measures subject to the provisions of this Act, to prevent the commission of an offence under this Act.

(2) For the purpose of subsection (1), any such officer may take such measures-

(*a*) in *good-faith*;

(*b*) proportionate to the harm that may be inflicted by the commission of the offence alleged to have been committed;

(*c*) only where all other means of achieving the objectives of this Act have proved ineffective; and

(*d*) only to the extent such measures may be necessary, to prevent the commission of an offence under this Act or for the purpose of apprehending persons who have committed offences under this Act.

(3) Any such officer shall not use Lethal force except in the exercise of private defence within the meaning of the Penal Code.

Specialized Counter Terrorism Agency of the Sri Lanka Police.

51. (1) The Inspector General of Police shall name and establish a Specialized Counter Terrorism Agency of the Sri Lanka Police, which shall be assigned with the responsibility of preventing and countering terrorism, and investigating the commission of any offence under this Act (hereinafter referred to as the "Specialized Agency").

(2) Notwithstanding the provisions of subsection (1), the Inspector General of Police shall be entitled to assign any investigation or any partly conducted investigation, into the commission of an offence under this Act, to any other division or unit or to any police station, of the Sri Lanka Police.

(3) It shall be the duty of the Specialized Agency, *inter-alia* to–

(*a*) maintain the central database;

(*b*) maintain statistics relating to the commission of offences under this Act;

(*c*) conduct investigations to arrest, prosecute, discharge and punish persons who commit offences under this Act;

(*d*) assess threat situations posed by terrorism, and issue warnings to the general public; and

(*e*) conduct research into terrorism, develop investigation techniques and strategies, best practices and standards.

Appointment of special teams of Investigators.

52. (1) Where any offence under this Act is committed or upon receipt of an information of the commission of, or preparation to commit an offence under this Act, the Inspector General of Police may appoint a special team of investigators

(hereinafter referred to as the "Investigation Team") comprising of the following persons, to investigate into such offence, or to take necessary measures to prevent the same:–

(*a*) a Police officer designated by name and rank who shall be the Head of the Investigation Team;

(*b*) such number of other police officers designated by name and rank who shall be the criminal investigators;

(*c*) such number of legal experts;

(*d*) such number of crime inspection officers;

(*e*) such number of forensic medical specialists;

(*f*) such number of forensic psychologists;

(*g*) such number of forensic scientists, including scientists in serology, genetics, ballistics, explosives and chemicals;

(*h*) such number of finger print experts;

(*i*) such number of experts in handwriting and suspected documents;

(*j*) such number of computer and automated network experts;

(*k*) such number of forensic auditors;

(*l*) such number of experts in analogy, digital technology and mobile and satellite communication technology;

(*m*) such number of photographers and videographers; and

(*n*) such number of other experts, that the Inspector General of Police may deem necessary.

(2) (*a*)The Inspector General of Police shall designate a police station to the Investigation Team constituted under subsection (1).

(*b*) The officer in charge of such police station shall, in addition to performing the general duties and functions assigned to such office runder this Act and other written law, assist the Investigation Team.

(3) The members of the Investigation Team who are not police officers shall be deemed to be Peace Officers for the purpose of performing the functions assigned to such Investigation Team.

Constitution of support teams.

53. (1) A police officer not below the rank of a Deputy Inspector General of Police who is a member of an Investigation Team may with the concurrence of relevant authorities constitute support teams comprising of members of any armed force, doctors and other health care workers, emergency relief service providers, public servants and other necessary persons, to attend the following duties at any scene of crime where an offence under this Act has been committed–

(*a*) to rescue and evacuate victims of any offence and other persons from the scene of crime;

(*b*) to provide emergency medical treatments;

(*c*) to recover dead bodies;

(*d*) to douse fires;

(*e*) to deactivate explosives and other lethal and dangerous substances;

(*f*) to carryout controlled explosions, in order to deactivate lethal and dangerous substances;

(*g*) to remove debris;

(*h*) to create access routes; and

(*i*) to provide other emergency, humanitarian and security requirements and services.

(2) It shall be the duty of every person whose assistance has been sought under subsection (1), to provide such assistance, as may be required.

(3) The Inspector General of Police shall take necessary measures to make necessary payments to such persons for the services provided.

Powers to facilitate investigations.

54. (1) For the purposes of this Act, a police officer not below the rank of a Sub-Inspector of police who has been authorized by an officer in charge of a police station to conduct an investigation in terms of this Act, shall be empowered to require any person to–

(*a*) be present for an interview;

(*b*) answer questions put to him;

(*c*) provide information;

(*d*) give statements;

(*e*) give statements on affidavit or oath:

Provided that, a statement on affidavit or oath shall only be obtained on an Order of a Magistrate;

(*f*) tender any document or thing that may be in the possession or control of such person;

(*g*) assist in conducting of an investigation;

(*h*) where the person is suspected for committing an offence under this Act, make himself available for a physical examination having due regard to gender sensitivity and privacy of the person;

(*i*) make himself available for taking of photographs, video recording and taking finger, palm or foot prints where the person is suspected for committing an offence under this Act.

(2) No person shall be bound to make a statement or produce an affidavit implicating or incriminating himself in the commission of an offence.

(3) Any person who is to be interviewed and whose statement is to be recorded, shall–

(*a*) if he so wishes, be entitled to have access to, or communicate with, an Attorney-at-Law of his choice and obtain legal advice prior to such interview; and

(*b*) be interviewed and the statement be recorded in a language understood by such person, and the services of an interpreter be obtained where necessary:

Provided that, where the services of an interpreter is obtained, the interview shall be recorded with its translation, and be transcribed, and preserved, for future verification.

(4) A police officer acting under the provisions of this section shall inform the person prior to being interviewed, of his rights under this Act.

(5)Wherever possible, the interview shall be audio-visually recorded.

Use of force to stop a vessel or vehicle.

55. Where the person in charge of any vehicle, vessel, train or aircraft disobeys any order given by a police officer or any other person acting on his demand for halting any such vehicle, vessel, train or aircraft for the purposes of this Act, such police officer or the person may use such force as may be necessary to halt such vehicle:

Provided however, any such force may be used only where all other means of halting the vehicle, vessel, train or aircraft have proved ineffective:

Provided further, any such officer shall not use lethal force except in the exercise of private defence within the meaning of the Penal Code.

Taking over the control of any vehicle, vessel, etc.

56. (1) A police officer shall be entitled to take over the control of any vehicle, vessel, train, aircraft or unmanned aerial vehicle, for the purpose of conducting an investigation under this Act or for preventing the commission of an offence.

(2) Such taking of control shall be promptly reported to a Magistrate.

Suspension or delaying the taking off or sailing of vessel, aircraft, etc.

57. For the purposes of this Act, a police officer not below the rank of a Senior Deputy Inspector General of Police may issue directions to–

(*a*) suspend or delay, the taking off of any aircraft, or the sailing of any vessel; or

(*b*) land any such aircraft at a designated airport or at any other appropriate location; or

(*c*) bring any vessel to any port or harbour or any other appropriate location:

Provided however, the Director General of Civil Aviation appointed under the Civil Aviation Authority Act,

No. 34 of 2002, and the Commander of the Sri Lanka Air Force shall be prior informed of any such direction issued in respect of any aircraft for the purpose of obtaining air-defence clearance:

Provided further, where the direction is issued in respect of a vessel of the Sri Lanka Navy, the Commander of the Sri Lanka Navy shall be given prior notice of such direction.

Causing clinical forensic medical examinations.

58. (1) An Officer in Charge of a Police Station shall be entitled to directly submit a suspect in custody or a victim of an offence to a government forensic medical specialist for examination.

(2) The Report of the examination shall be directly submitted by the medical officer, to the relevant officer in charge of the police station, with a copy to the Magistrate before whom the suspect has been, or is to be produced.

Directly submitting items to Government Analyst or other expert.

59. (1) An officer in charge of a Police Station shall be entitled to directly, submit any document, thing or article, which he reasonably believes to be connected with the Commission of an offence under this Act, to the Government Analyst or to any other local or foreign expert for examination and analysis.

(2) The Report of the examination shall be directly submitted by the Government Analyst or other expert, to the officer in charge of the relevant police station.

Transfer of Material for Investigation.

60. (1) It shall be lawful for a police officer who conducts an investigation on an offence under this Act to submit material for investigation to any other law enforcement agency, if he is of the view that, there exists material, indicating that an offence falling under the purview of the investigation competency of such other law enforcement agency, have been committed.

(2) The law enforcement agency referred to in subsection (1), may include an agency of any other sovereign country.

Investigations outside Sri Lanka.

61. (1) It shall be lawful for a police officer with the approval of the Inspector General of police, and with the prior approval obtained from the relevant foreign country to conduct an investigation in terms of this Act outside Sri Lanka.

(2) It shall be lawful for a police officer authorized by the Inspector General of Police, with the prior approval obtained from the relevant foreign country and the Government of Sri Lanka, to undertake and carry out a joint investigation into the commission of an offence under this Act, with a criminal investigation agency of any other country.

Police may issue directives for the protection of the public.

62. (1) Where a police officer not below the rank of a Senior Superintendent of Police receives information that an offence under this Act is committed or likely to be committed, he may issue any one or more of the following directives to the public, for the purpose of protecting persons from harm or further harm, associated with such offence: -

(*a*) not to enter any specified area or premises;

(*b*) to leave a specified area or premises;

(*c*) not to leave a specified area or premises and to remain within such area or premises;

(*d*) not to travel on any road;

(*e*) not to transport anything or to provide transport to anybody;

(*f*) to suspend the operation of a specified public transport system;

(*g*) to remove a particular object, vehicle, vessel or aircraft from any location;

(*h*) to require that a vehicle, vessel, ship or aircraft to remain in its present position;

(*i*) not to sail a vessel or ship into a specified area until further notice is issued;

(*j*) not to fly an aircraft out of, or into, a specified air space;

(*k*) not to congregate at any particular location;

(*l*) not to hold a particular meeting, rally or procession; and

(*m*) not to engage in any specified activity:

Provided however, no directive under paragraphs (*k*), (*l*) or (*m*), shall be issued, without the prior approval obtained from a Magistrate, who shall prior to the issuance of such directive satisfy himself of the necessity for issuing the same and may make an order to issue such directive subject to such conditions.

(2) The Human Rights Commission shall forthwith be informed of any directive issued under this section by the relevant officer who issued such directive or the Magistrate who granted prior approval for any such directive under paragraphs (*k*), (*l*) or (*m*).

(3) Any such directive, may include exceptions to such directive, in order to meet with emergency situations and humanitarian requirements of persons that may be affected by any such directive.

(4) Any such directive, shall be published in the *Gazette* and be given a wide publicity in the relevant area through appropriate other means.

(5) The period of operation of any such directive shall not exceed, continuously for more than twenty four hours at a time, and for a total period of more than seventy two hours:

Provided however, where the period of operation of any such directive is required to be extended for more than twenty four hours, such extended period shall commence after an interval of not less than twenty four hours, after the expiration of the initial period of operation of the directive.

(6) The assistance of the members of any armed force may be obtained by the Inspector General of Police, with the prior approval obtained from the Commander of the relevant armed force, to give effect to any directive under this section.

(7) For the purpose of giving effect to such directive, it shall be lawful for police officers to cordon-off such area.

(8) During the period of operation of such directive and during a twenty four hours interval between two periods of operation, it shall be lawful for any police officer or a member of any armed force authorized in that behalf -

(*a*) to stop, question and search any person found within the effective area of such directive;

(*b*) to enter and search any premises; or

(*c*) to stop any person who may attempt to enter into or, remain in the effective area of such directive and question and search such person or his belongings and property that may be taken in, or out of such area.

(9)Any search conducted in terms of this section shall be carried out in a gender sensitive manner, with due respect to the dignity and privacy of the person being searched, and while ensuring that the search of a female shall only be carried out by a female officer.

(10) It shall also be lawful for a police officer or a member of the armed forces authorized in that behalf to restrain and search any person who may act contrary to the directive.

(11) Any person, who willfully acts contrary to a directive issued under this section, shall be guilty of an offence, and shall upon conviction by a Magistrate be punished with imprisonment for a term not exceeding one year or to a fine not exceeding five thousand rupees or to both such imprisonment and fine.

(12) An offence under this section shall be deemed to be a non-cognizable offence within the meaning of the Code of Criminal Procedure Act, if the commission of such offence does not endanger the life of any person other than the offender.

PART IV

MATERIAL FOR INVESTIGATION

Obtaining information from banks, financial institutions,etc.

63. (1) A police officer not below the rank of a Superintendent of Police shall be entitled to apply for an order from a Magistrate to require any bank, non-banking financial institution or designated non-finance business to provide following information and material to such officer, subject to the provisions of the Prevention of Money Laundering Act, No. 5 of 2006 and Financial Transactions Reporting Act, No. 6 of 2006: –

(*a*) information relating to any financial service provided by such bank, institution or business, to any person;

(*b*) details of any financial transaction carried out by any person;

(*c*) details relating to bank accounts, deposits, remittances, and withdrawals and financial services provided by any such bank, institution or business;

(*d*) details relating to securing of financial services by any person; and

(*e*) a certified statement of any account or other information pertaining to any account or transaction.

(2) Such Magistrate shall consider the application made by such police officer, and make an order in terms of subsection (1), where it appears reasonable and necessary for conducting investigation.

(3) The Magistrate shall maintain confidentiality in respect of the application and the proceedings pertaining to the same shall be held *in-camera*, if requested by such police officer.

Obtaining information from service providers.

64. (1) A police officer not below the rank of a Superintendent of Police shall be entitled to apply for an order from a Magistrate to require any telecommunication, satellite or digital service or data service provider, to provide –

(*a*) information pertaining to services provided or being provided by such service provider to any person;

(*b*) information pertaining to services enjoyed by any person to whom such services have been made available;

(*c*) any information, data or document or record that may be stored, archived or otherwise kept, by such service provider; and

(*d*) information pertaining to the uploading or downloading of data or information, to or from any instrument through the service provided by such service provider.

(2) Such Magistrate shall consider the application made by such police officer, and make an order in terms of subsection (1), where it appears reasonable and necessary for conducting investigation.

(3) The Magistrate shall maintain confidentiality in respect of the application and the proceedings pertaining to the same shall be held *in-camera* if requested by such police officer.

Obtaining information from government or statutory institutions.

65. (1) A police officer not below the rank of Superintendent of Police shall, be entitled to apply for an order from a Magistrate to require from the following officers any information or document for the purpose of conducting an investigation on an offence under this Act :-

(*a*) the Secretary to any Ministry;

(*b*) Secretary General of the Parliament of Sri Lanka;

(*c*) Commissioner General of Inland Revenue;

(*d*) Governor of the Central Bank;

(*e*) Head of the Department of Foreign Exchange;

(*f*) Director of the Financial Intelligence Unit;

(*g*) Director General of the Securities and Exchange Commission of Sri Lanka;

(*h*) Director General of Customs;

(*i*) Controller of Immigration and Emigration;

(*j*) Commissioner General for the Registration of Persons;

(*k*) Controller General of Imports and Exports;

(*l*) Registrar of Companies;

(*m*) Commissioner General of Land;

(*n*) Director General of Intellectual Property of Sri Lanka;

(*o*) Commissioner General of Motor Traffic;

(*p*) Director General of Telecommunications;

(*q*) a Head of any Government department, statutory body or other Government institution; or

(*r*) Chairman of a Provincial Council or a Chairman or a Special Commissioner of a local authority.

(2) Such Magistrate shall consider the application made by such police officer, and make an order in terms of subsection (1), where it appears reasonable and necessary for conducting investigation.

(3) The Magistrate shall maintain confidentiality in respect of the application and the proceedings pertaining to the same shall be held *in-camera* if requested by such police officer.

PART V

MAGISTRATE TO MAKE ORDERS TO FACILITATE INVESTIGATIONS

Magistrate to make orders on application of a police officer in charge.

66. (1) For the purpose of conducting an investigation on an offence under this Act, an officer in charge of a police station may make an application to a Magistrate for making orders to facilitate such investigation-

(*a*) restraining a suspect from travelling outside Sri Lanka:

Provided that, the officer in charge of the police station shall forthwith take steps to serve such order on the suspect;

(*b*) taking of blood and hair samples and swab;

(*c*) by conducting of identification parades;

(*d*) forwarding productions to the government analyst, any other local or foreign expert or to a government forensic medical specialist;

(*e*) conducting of examinations and tests by experts;

(*f*) freezing of bank accounts or freezing of other financial deposits and accounts, subject to any condition that may be imposed:

Provided that, the Magistrate may on his own motion or on an application made in that behalf, vary such order, or permit the use in *good faith* of the funds in such accounts by the holder of any such account, for any legitimate purpose;

(*g*) suspending or varying the provision of services being provided by any service provider:

Provided that, the Magistrate may either on his own motion or on an application made in that behalf, vary such order, enabling the use in *good faith* of such services by the recipient of any such service, for any legitimate purpose; and

(*h*) opening of safe boxes.

(2) The Magistrate shall, upon being satisfied that the application is made in good faith and the assistance sought is reasonably necessary for the purpose of facilitating the conduct of investigations, make the order sought under subsection (1).

Magistrate to authorize unlocking data and information.

67. (1) For the purposes referred to in subsection (2), a police officer not below the rank of a Superintendent of Police may make an application to a Magistrate seeking for an order authorizing such officer–

(*a*) to direct any person who provides locking or encryption services pertaining to any communication or storage services or equipment of, any data or information or other thing, to unlock or unencrypt the service or equipment and provide information contained therein to such police officer;

(*b*) to intercept, read, listen or record any postal message or electronic mail or any telephone, voice, internet, or video conversation, or conference or any communication through any other medium;

(*c*) to access any analogue or digital data or information; exchange or transfer system.

(2) The purposes for which the Magistrate may make an Order under subsection (1) shall be –

(*a*) to determine the identity of a person who has committed;

(*b*) to determine the location of a person who has committed;

(*c*) to facilitate the conduct of an investigation into;

(*d*) to gather evidence against a person who has committed;

(*e*) to determine whether one or more persons are conspiring, planning, preparing or attempting to commit;

(*f*) to take measures to prevent the commission of,

an offence under this Act.

(3) Such Magistrate shall, if he is satisfied that the application is made in *good faith* and making of such order is reasonably necessary for conducting investigations, issue such order.

Magistrate to record statements.

68. (1) On an application made by an officer in charge of a police station conducting an investigation into an offence under this Act, the Magistrate to whom such application is made, may question and record the statement of any suspect, who is produced by such officer before the Magistrate.

(2) The recording of such statement, shall be in compliance with the following conditions: -

(*a*) the person shall be informed of his rights under this Act;

(*b*) the person shall have access to, or communicate with, an Attorney-at-Law, if he so wishes;

(*c*) the person shall be inquired in order to ascertain whether such person wishes to voluntarily answer the questions put to him, and the Magistrate shall proceed to record a statement, only if he is satisfied that such person is voluntarily making such statement, without any promise, inducement or threat;

(*d*) a questionnaire shall be obtained from the officer in charge of the police station for the purpose of questioning such person;

(*e*) the person shall be informed that he has no obligation to answer the questions being put to him;

(*f*) the person shall be warned that in the event of criminal proceedings being instituted against him, the contents of the statement that he will make, may be used as evidence against him;

(*g*) whatever statement such person wishes to give shall be recorded, in addition to answers given to the questions put to him;

(*h*) in situations where the person being interviewed, does not understand the language spoken by the Magistrate, the services of an interpreter shall be obtained, in order to translate the questions and the answers into the languages understood by such person and the Magistrate;

(*i*) a transcript of the interview shall be prepared and retained for future verification.

(3) Where the person who makes such statement is subsequently indicted for having committed an offence under this Act, such statement shall be admissible in evidence against such person at proceeding in respect of such offence.

(4) Where the person who makes such statement is called by the Attorney General as a witness to testify against a person who is indicted for having committed an offence under this Act, either the entirety of the statement or a part thereof, may be marked and produced in evidence, as part and parcel of the examination-in-chief of such person.

(5) When the suspect declines to make a statement to the Magistrate, such fact shall be communicated by the Magistrate to the relevant police officer and the suspect shall be kept in remand custody.

Completion of investigations.

69. (1) When the investigation is completed, the officer in charge of the relevant police station shall submit to the Magistrate, a report notifying the completion of investigations.

(2) No Detention Order under this Act shall be issued or extended in respect of a suspect in respect of whom the investigation has been completed.

(3) If at any time, an investigation in respect of any person arrested under this Act, is to resume, the Magistrate and the Human Rights Commission shall be informed of such resumption and the completion of further investigation.

Notes of Investigations to be submitted to the Attorney General.

70. Upon the completion of the investigation, the officer in charge of the police station shall where he believes that there remains adequate evidence to institute criminal proceedings against the suspect-

(*a*) request the Attorney General to institute criminal proceedings against the suspect; and

(*b*) submit the following through an officer authorized in that behalf by the Inspector General of Police to the Attorney General:-

(i) observations found from the place of the commission of the offence and any other place examined or searched;

(ii) all statements recorded during the investigation including the statements of the person alleged to have committed the offence;

(iii) reports of experts, photographs, sketches, plans, etc.;

(iv) any other material the Attorney General may specify, from time to time; and

(v) a report relating to the investigation conducted.

PART VI

Institution of Criminal Proceedings

Attorney General to institute proceedings.

71. The Attorney General shall institute criminal proceedings against any person who appears to have committed an offence under this Act or an offence under any other law which has been committed by such person in the course of committing an offence under this Act.

Suspension and deferment of indictment.

72. (1) Notwithstanding anything to the contrary in any other written law, where –

(*a*) death or grievous bodily injury has not been caused to any person; or

(*b*) the security of the State and the people of Sri Lanka have not been seriously compromised or affected,

the Attorney General may, having due regard to the facts specified in subsection (2), and subject to one or more conditions referred to in subsection (3), suspend and defer the institution of criminal proceedings against such person alleged to have committed an offence under this Act, for a period not less than five years and not exceeding ten years.

(2) Where the Attorney General suspends or defers the institution of criminal proceedings under subsection (1), he shall pay due regard to-

(*a*) the State policy,

(*b*) the national interest and public interest ;

(*c*) views of the Inspector General of Police;

(*d*) views of the victims of the offence; and

(*e*) the representations that may be made by the accused person or, on his behalf by his Attorney-at-Law.

(3) Where the Attorney General decides in terms of subsection (1) to suspend and defer the institution of criminal proceedings against any person alleged to have committed an offence under this Act, he shall prefer an application to the High Court, to obtain the sanction of such Court to the imposition of one or more of the following conditions on such person as consideration for the suspension and deferment of the institution of criminal proceedings against such person -

(*a*) to publicly express remorse and apology before the High Court, using a text issued by the Attorney General;

(*b*) to provide reparation to victims of the offence, as specified by the Attorney General;

(*c*) to participate in a specified programme of rehabilitation;

(*d*) to publicly undertake that such person refrains from committing an offence under this Act;

(*e*) to engage in specified community or social service; or

(*f*) to refrain from, committing any indictable offence or, breach of peace.

(4) The High Court shall upon consideration of the application made by the Attorney General under subsection (3), order the person alleged to have committed the offence to appear before the Court, and shall notify such person of the conditions imposed by the Court.

(5) If such person fulfils the conditions imposed under subsection (3) during the period stipulated for fulfilling such conditions, the Attorney General shall not institute criminal proceedings against such person in respect of the offence alleged to have been committed.

(6) If the person fails without valid excuse to comply with such conditions, the Attorney General may institute criminal proceedings against such person after the lapse of the period given to the suspect to fulfil such conditions.

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PART VII

TRIAL

Trial in the High Court.

73. Every person who commits an offence under this Act shall be triable without a preliminary inquiry, on indictment by the Attorney General, before a Judge of the High Court, sitting without a jury:

Provided however, the Chief Justice may direct that the trial shall be held before the High Court at Bar, in terms of the provisions of section 450 of the Code of Criminal Procedure Act, where-

(*a*) the Attorney General so requests the Chief Justice; or

(*b*) the Chief Justice is of the opinion that the interests of Justice so demands ; or

(*c*) the accused or an Attorney-at-Law on his behalf so applies.

Priority for trials under this Act.

74. Notwithstanding anything to the contrary in any other law, the High Court shall give priority to the trials against any person indicted for, any offence under this Act.

Conduct of trials on day-to-day basis.

75. Unless exceptional circumstances so warrant a trial under this Act shall be held from day-to-day, other than during weekends, public holidays and days fixed by the Chief Justice to be days on which the court shall be on vacation.

Trial procedure.

76. Subject to the provisions of this Act, the provisions of the Code of Criminal Procedure Act shall, *mutatis mutandis*, apply in respect of a trial under this Act.

Withdrawal of Indictment.

77. (1) If at any time before the judgement is given by the High Court against a person who has been indicted for having committed one or more offences under this Act, where any charge in the indictment does not relate to-

(*a*) causing death or grievous bodily injury to any person;

(*b*) endangering the security of the State and the people of Sri Lanka; or

(*c*) causing serious harm to property,

the Attorney General may, having due regard to the facts specified in subsection (2) and subject to one or more conditions referred to in subsection (3), with the permission of the High Court, withdraw the indictment against the accused.

(2) When the Attorney General withdraws the indictment under subsection (1), he shall pay due regard to –

(*a*) the State policy;

(*b*) the national interest and public interest;

(*c*) the views of the Inspector General of Police;

(*d*) views of the victims of the offence; and

(*e*) representations that may be made by the accused person or on his behalf by his Attorney-at-Law.

(3) The Attorney General may impose one or more of the following conditions under subsection (1) :-

(*a*) to publicly express remorse and apology before the High Court, using a text issued by the Attorney General;

(*b*) to provide reparation to victims of the offence, as specified by the Attorney General;

(*c*) to voluntarily participate in a specified programme of rehabilitation;

(*d*) to publicly undertake that he refrains from committing an offence under this Act or under other law;

(*e*) to engage in specified community or social service; and

(*f*) to refrain from committing, any indictable offence, or, breach of peace.

(4) If such person fulfils the conditions imposed under subsection (3), during the period stipulated for fulfilling such conditions, the Attorney General shall not present a fresh indictment against the accused thereafter on the same charges in the original indictment.

(5) If the accused fails without valid excuse to comply with the said conditions, the Attorney General may file a fresh indictment against the accused on the same charges in the original indictment and proceed to prosecute the accused after the lapse of the period given for the accused to fulfil such conditions.

Grant of bail during High Court trial.

78. If the trial against a person remanded under this Act has not been concluded after the expiration of one year, from the date of filing the indictment, the Judge of the High Court before whom the trial is pending, or is held shall release such person on bail, unless the delay in the completion of the trial can be attributed to the conduct of the accused or his Attorney-at-Law.

PART VIII

ADMISSIBILITY OF STATEMENTS

Statements made to a Magistrate.

79. (1) A statement made by any person to a Magistrate under this Act, shall be admissible against such person, subject to the provisions specified in subsection (2) and to the provisions of section 24 of the Evidence Ordinance.

(2) (*a*) No person shall be legally bound to make a statement or produce an affidavit implicating or incriminating himself in the commission of an offence.

(*b*) Any person who is to be interviewed and his statement is to be recorded, shall have the right, if he so wishes, to have access to, or communicate with, an Attorney-at-Law and obtain legal advice prior to such interview.

(*c*) A Magistrate seeking to record a statement, shall inform the person being interviewed of his rights under this Act prior to such interview.

(*d*) If the person whose statement being recorded at the interview does not understand the language being spoken, the services of an interpreter shall be obtained and the interview shall be conducted in a language that could be understood by such person.

(*e*) A translation of the statement shall be transcribed together with the corresponding questions, and kept for future verifications.

(*f*) The interview shall wherever possible be audio-visually recorded.

Pre-condition to be satisfied for admissibility of a Confession made to a Magistrate.

80. (1) Notwithstanding anything to the contrary in any other written law a confession made to a Magistrate by a person accused of having committed an offence under this Act, shall not be admissible in evidence against such person, unless-

(*a*) the Magistrate who recorded such confession had immediately prior to and soon after recording the statement, cause the person who made the statement to be examined by a government forensic medical specialist; and

(*b*) the report of the forensic medical specialist is produced by the prosecuting authority, during the *viore-dire* inquiry, that may be conducted for verifying the admissibility of the confessional statement.

(2) The burden of proving the fact that any confession was voluntarily made, shall lie with the prosecuting authority.

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PART IX

MISCELLANEOUS ORDERS

Minister to make Proscription Orders.

81. (1) Notwithstanding anything in any other written law where the Minister has reasonable grounds to believe that any organization is engaged in any act amounting to an offence under this Act, or is acting in a manner prejudicial to the national security of Sri Lanka or any other country, he may by order published in the *Gazette*, (hereinafter referred to as "Proscription Order") proscribe such organization in terms of the provisions of this Act.

(2) A Proscription Order may be made by the Minister, for giving effect to-

(*a*) a recommendation made by the Inspector General of Police; or

(*b*) a request made by the Government of any foreign country to the Government of Sri Lanka.

(3) A Proscription Order,may include one or more of the following prohibitions:-

(*a*) prohibition on conducting meetings, activities and programmes by such organization;

(*b*) prohibition on the use or mobilization of bank accounts and other financial depositories of such organization;

(*c*) prohibition to entering into contracts;

(*d*) prohibition on raising of funds and receiving grants and bequests;

(*e*) prohibition to transferring funds and assets of the organization; or

(*f*) prohibition for lobbying and canvassing on behalf of such organization.

(4) Any prohibition, restriction, suspension or sanction, issued under any other written law in respect of an organization in respect of which a Proscription Order has been issued under subsection (1), shall continue to be in operation, without prejudice to any such Proscription Order issued under subsection (1).

(5) Immediately after publication of a Proscription Order in the *Gazette*, it shall be communicated to the organization in respect of which such Proscription Order has been issued, and be immediately informed to the members and employees of such organization together with reasons therefor, by way of direct communication, whenever such communication is possible. A public announcement of such Order shall also be made.

(6) The Minister may, on an application made by a person or an organization aggrieved by a Proscription Order issued under subsection (1), review or cancel such Order after considering the representations of such person or organization.

(7) (*a*) A Proscription Order made under this section shall be initially issued for a period of one year.

(*b*) On the lapse of the period of one year, the Minister may taking into account, the contemporary and reliable information and security needs, extend any such Order for further periods not exceeding one year at a time.

(8) Any person or organization aggrieved by a Proscription Order or any extension thereof, shall be entitled to appeal to the Court of Appeal seeking revision or revocation of such Order.

Minister to make Restriction Orders.

82. (1) Where on a recommendation made by the Inspector General of Police, the Minister has reasonable grounds to believe,that any person has committed, or is making preparation, to commit an offence under this Act, and the conduct of such person can be investigated without

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him being arrested, and if the Minister is of the opinion that it is necessary to do so, the Minister may, on application made to the High Court and upon obtaining the sanction of such Court, make an order in writing (hereinafter referred to as "Restriction Order") imposing such restrictions, as shall be specified in that order, for a period not exceeding one month.

(2) A Restriction Order under subsection (1) may include restrictions on -

(*a*) the movement outside the place of residence;

(*b*) travelling overseas;

(*c*) travelling within Sri Lanka;

(*d*) travelling outside the normal route between the place of residence and place of employment;

(*e*) the communication or association, or both, with particular persons as shall be specified in the order; or

(*f*) engaging in certain specified activities that may facilitate the commission of an offence under this Act.

(3) Any such Restriction Order may require the suspect to report to any police station on a specified date, or at specified periodic intervals.

(4) No Restriction Order made under subsection (1) shall be made, unless such Order-

(*a*) is necessary for the prevention of the commission of an offence under this Act;

(*b*) is necessary to conduct investigations into the commission of an offence under this Act;

(*c*) is proportionate to the offence alleged to have committed or likely to be committed under this Act;

(*d*) does not amount to an arbitrary deprivation of liberty or restriction on the exercise of Fundamental Rights, in terms of the provisions of the Constitution.

(5) The Minister shall cause any such Restriction Order to be served on the person in respect of whom such order was made, and require the Inspector General of police to take necessary steps to enforce any such Order and ensure compliance therewith.

(6) (*a*) The Inspector General of Police shall cause, the statements of the person in respect of whom the Restriction Order was made, to be recorded, within one week of making thereof and submit it to the Minister, enabling the Minister to determine whether the said Order shall be revoked or varied.

(*b*) Prior to recording the statement, the relevant person shall be informed of his rights under this Act, and be informed of the grounds for making the Restriction Order.

(*c*) Prior to recording the statement, the relevant person shall be permitted if he so requests, to have access to, or confidential communication with, an Attorney-at-Law.

(*d*) The interview shall be conducted and the statement shall be recorded in a language understood by the person being interviewed, with the services of an interpreter obtained where necessary:

Provided that, where the services of an interpreter is obtained, the interview shall be recorded with its translation, and be transcribed, and preserved, for future verification.

(*e*) Wherever possible, the interview shall be audio-visually recorded.

(7) Any person who willfully acts in contravention of a Restriction Order made under this Act, shall commit an offence, and shall upon conviction by a Judge of the High Court be liable to imprisonment which may extend to three years and to a fine not exceeding rupees three hundred thousand.

(8) The Minister shall review a Restriction Order made under this section in every month and extend the period thereof, if necessary.

(9) The aggregate period of any Restriction Order, shall not exceed six months.

(10) The person in respect of whom a Restriction Order or an extension thereof has been made, or an Attorney-at-Law on his behalf, may appeal against such Order to the Court of Appeal, seeking revision or revocation of such Order.

(11) The Court of Appeal shall dispose of any such appeal within one month of the date of preferring such appeal, considering the grounds of appeal and the reasons assigned by the Minister and the Inspector General of Police, for making such Order.

Curfew Orders.

83. (1) Notwithstanding the provisions of the Public Security Ordinance (Chapter 140) the President may on his own motion or on the request of the Minister upon being satisfied of the information provided by the Minister, by Order published in the *Gazette* declare curfew for a period specified in such Order (hereinafter referred to as the "Curfew Order") under this Act, either to the entirety or part of Sri Lanka including its territorial waters and air space for the purposes referred to in subsection (2), and subject to the provisions of subsection (3).

(2) The President may make a Curfew Order, for the purposes of -

(*a*) controlling, detecting or investigating the occurrence of systematic and widespread

committing of terrorism and other offences under this Act;

(*b*) for the protection of national or public security from terrorism and other offences under this Act; or

(*c*) to prevent the systematic and widespread committing of offences under this Act.

(3) (*a*) The maximum period of any Curfew Order shall not exceed twenty four hours at a time.

(*b*) There shall be an interval of a minimum period of three hours between two periods of Curfew.

(4) A Curfew Order may be made subject to such exemptions that may be imposed to provide for humanitarian needs.

(5) Any such Curfew Order, shall-

(*a*) specify categories of persons who are exempted therefrom;

(*b*) specify any person who may be authorized to issue permits-

(i) exempting any person or persons from adhering to the Curfew Order; and

(ii) authorizing such person or persons to travel from one place to another, due to the need to maintain essential services and supplies, emergency requirements and humanitarian needs, as may be specified in such permit.

(6) Any person who needs to be fully or partly exempted from a Curfew Order, shall be entitled to make an application to the authority referred to in subsection (5) in the prescribed form.

(7) The Inspector General of Police shall immediately notify the Human Rights Commission in respect of a Curfew Order made under subsection (1).

(8) A person who willfully violates a Curfew Order, shall commit an offence, and upon conviction by a Magistrates Court, be liable to a fine not exceeding rupees three hundred thousand.

(9) It shall be lawful for any arresting officer to use reasonable force, as may be necessary to ensure compliance with a Curfew Order, where all other means of ensuring compliance have proved ineffective:

Provided however, any such officer shall not use lethal force unless in the exercise of private defence within the meaning of the Penal Code.

Prohibited Places.

84. (1) For the purposes of this Act, the Minister may on a recommendation made by the Inspector General of Police or the Commander, respectively of, Army, Navy or Air Force or the Director General of Coast Guard, from time to time, by Order published in the *Gazette*, stipulate any public place or any other location to be a prohibited place (hereinafter referred to as the "Prohibited Place").

(2) The Order under subsection (1) shall include prohibitions on the entry, and where necessary, may include prohibitions on taking photographs, video recording and making sketches of the Prohibited Place.

(3) In addition to the publication of the order in respect of a Prohibited Place in the *Gazette*, sufficient publicity through other means shall be given.

(4) The Inspector General of Police shall immediately notify the Human Rights Commission in respect of an Order made under subsection (1).

(5) Upon being declared a place as a Prohibited Place, notices shall be placed at entry points to such place where possible, indicating that such place has been declared as a Prohibited Place.

(6) After making an order under subsection (1), the officer in charge or any other person having lawful authority and control over the Prohibited Place as authorized by the Minister, shall specify the categories of persons who shall be authorized to enter and remain in such place, and he is also entitled to authorize any other person to enter such place on conditions he may specify.

(7) Any person willfully contravenes an Order made under subsection (1) by entering or remaining in a prohibited place without lawful authority, shall commit an offence, and be liable to imprisonment for a term not exceeding three years and to a fine not exceeding rupees three hundred thousand or to both such fine and imprisonment.

(8) Any person willfully contravenes an Order made under subsection (2) by taking photographs, video recording and making sketches of a prohibited place shall commit an offence, and shall be liable to imprisonment for a term not extending three years or to a fine not exceeding rupees three hundred thousand.

Calling out armed forces

85. (1) Where the President receives reliable information of widespread attacks of terrorism and commission of offences under this Act, and the President on advice of the Inspector General of Police forms the opinion that the police is inadequate to effectively deal with such situation and maintain law and order, the President may, by Proclamation, direct any Commander of any armed force or every Commander of every armed force to assist in maintaining public order and to perform specified functions assigned to police officers under this Act.

(2) The President may, make a proclamation under subsection (1), on his own motion or on a request made by the Minister or the Inspector General of Police.

(3) Such Proclamation shall –

(*a*) specify whether such Proclamation is operative for the entirety of the territory of Sri Lanka or to certain specified areas of Sri Lanka;

(*b*) specify the ranks of officers of the armed forces who are empowered to exercise the powers on par with the police officers of designated ranks.

(4) The members of any armed force who are called out for the purpose of maintaining public order in any area shall for such purpose have the powers, including the power of search and arrest, conferred on police officers by any provision of this Act or of any other written law, other than the powers specified in Chapter XI of the Code of Criminal Procedure Act:

Provided however, the power of seizure and removal of offensive weapons and offensive substances from persons in a public place conferred on police officers shall not be exercised by any member of an armed force called out as aforesaid who is of a rank below that of, a Sergeant of Sri Lanka Army or Sri Lanka Air Force or of a Petty Officer of the Sri Lanka Navy.

(5) In any area in respect of which a proclamation is operative under subsection (1), section 95 of the Code of Criminal Procedure Act, shall have effect as if the expression "police officer" occurring therein includes any member of the armed forces who is called out by such proclamation and who is of a rank not below that of Sergeant of Sri Lanka Army or Sri Lanka Air Force or of Petty Officer of the Sri Lanka Navy.

(6) Where any member of the Sri Lanka Army who is not an officer or a solider of the Regular Force is called out by a proclamation under subsection (1), he shall, within the meaning and for the purposes of the Army Act, be deemed to be on active service and to be a person subject to military law.

(7) Where any member of Sri Lanka Navy who is not an officer or a seaman of the Regular Naval Force, is called out by a proclamation under subsection (1), he shall, within the meaning and for the purposes of the Navy Act, be deemed to be on active service and to be a person subject to naval law.

(8)Where any member of the Sri Lanka Air Force who is not an officer or airman of the Regular Air Force is called out by a proclamation under subsection (1), he shall, within the meaning and for the purposes of the Air Force Act, be deemed to be on active service and to be a person subject to that Act.

(9)Any member of the armed forces who is called out by a proclamation under subsection (1) shall remain so called out until the expiry or rescission of that proclamation.

Seizure, Confiscation and Forfeiture of Property.

86. (1) Any police officer may seize any movable or immovable property used for committing or concerned in committing an offence, or derived out of committing an offence under this Act.

(2) Any such seizure shall be valid for a period not exceeding three days of such seizure unless such seizure is affirmed and extended by a Magistrate on a request made by an officer in charge of a police station.

(3) Any seizure of property not so affirmed and extended as aforesaid shall cease to have effect after the expiry of the said period of three days.

(4) Any seizure of property affirmed and extended under subsection (2) shall cease to be in force upon the expiry of ninety days of such affirmation unless authorized by a Magistrate, who may authorize the extension of the seizure till the conclusion of the trial, relating to the relevant offence, upon a request made by the officer in charge of the police station.

(5) Where any person establishes his claim in respect of the property so seized, the Magistrate may release such

property to the person who establishes the claim, on conditions that may be imposed, if he is satisfied that-

(*a*) such person is the *bona-fide* owner, who has no knowledge of the commission of the offence; or

(*b*) such person had exercised due diligence to prevent the commission of such offence.

(6) Where any person is convicted for an offence under this Act, the court may make order subject to the determination of an appeal against such conviction that any property movable or immovable used in the commission of such offence or derived out of such offence, be forfeited and confiscated to the State.

(7) Where any person has been acquitted of having committed an offence under this Act, the Court may make order that any property used for or derived out of the commission of such offence be forfeited and confiscated to the State.

(8) Notwithstanding the provisions of subsection (6) and (7), any property so forfeited and confiscated to the State which may have been used by any person to commit an offence under this Act without the knowledge or consent of the owner of such property, shall be discharged from such forfeiture and confiscation.

(9) Any person aggrieved by an order made under this section, may appeal to the Court of Appeal.

(10) The provisions of subsections (5), (6), (7) and (8) shall not apply to any instrument, weapon, ammunition or utensil used to commit an offence under this Act.

PART X

Sentencing Guidelines

Aggravating factors.

87. When determining the term of imprisonment to be imposed on a person convicted of having committed an offence under this Act the following factors shall be taken into account as aggravating factors which warrant the imposing of an enhanced term of imprisonment, subject to the provisions of this Act: -

(*a*) the effect of the commission of the relevant offence on the territorial integrity or sovereignty of Sri Lanka, or of any other sovereign country;

(*b*) the effect of the commission of the relevant offence on the security or defence of Sri Lanka;

(*c*) the number of lives lost due to the Commission of the offence;

(*d*) whether the Commission of the offence has given rise to public disquiet;

(*e*) injuries or harms inflicted on the people of Sri Lanka or of any other sovereign country;

(*f*) the impact on the victims of the offence and aggravated nature of the consequences undergone by them;

(*g*) the effect on the security of the general public;

(*h*) the impact on the peaceful co-existence of the people of Sri Lanka;

(*i*) financial and material loss caused to the government of Sri Lanka and to the general public; and

(*j*) financial and other resources required for the reparation and restoration of the damages caused.

President's Secretariat

88. When determining the term of imprisonment to be imposed on a person convicted of having committed an offence under this Act, the following factors shall be taken into account as mitigating factors which warrant reduced term of imprisonment subject to the provisions of this Act:- Mitigating factors.

(*a*) publicly denouncing terrorism;

(*b*) expression of remorse;

(*c*) young age at the time of committing the offence;

(*d*) old age at the time of sentencing;

(*e*) time period spent in detention or remand;

(*f*) coercion or duress under which the offence had been committed;

(*g*) consent on the part of the victims of the offence to grant pardon to the accused;

(*h*) voluntarily providing of reparation by the accused to the victims of the offence;

(*i*) public denouncement of violence, and other offences in respect of which the accused was convicted of guilty;

(*j*) genuine commitment towards the preservation and protection of the territorial integrity and sovereignty of Sri Lanka; and

(*k*) voluntarily participating in and completing a rehabilitation programme, stipulated by the Court.

PART XI

General

89. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act- Certain provisions of the Code of Criminal Procedure Act not to apply.

(*a*) the provisions of section 303 of that Act shall not apply in the case of any person who is convicted by or before any court for any offence under this Act unless the accused at the time of conviction, is less than eighteen years of age, or has reached the age of seventy years or more; or

(*b*) the provisions of section 306 of that Act shall not apply in the case of any person who pleads or is found guilty, by or before any court for any offence under this Act.

90. The provisions of Children and Young Persons Ordinance (Chapter 23) shall apply to any child who is found guilty and convicted for having committed an offence under this Act. Children And Young Persons Ordinance to apply.

91. Where an offence under this Act is committed by a body of persons, if that body of persons is- Offences by bodies of persons.

(*a*) a body corporate, every director and principal executive officer of that body corporate; or

(*b*) a firm, every partner of that firm; or

(*c*) a body unincorporated other than a firm, every officer of that body responsible for its management and control, shall be deemed to be guilty of such offence:

Provided that, no such person shall be deemed to be guilty of such offence, if he proves that such offence has committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Regulations.

92. (1) The President may make regulations either on his own motion or on the recommendation of the Minister under this Act, for the purpose of carrying out or giving effect to the purposes, principles and provisions of this Act.

(2) Every regulation made by the President shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the president shall within thirty days of its publication in the *Gazette* be brought before Parliament for its approval.

(4) Any regulation not so approved shall be deemed to be rescinded from the date of such disapproval but without prejudice to anything duly done thereunder.

(5) Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

Directions.

93. (1) The President may from time to time on the recommendation of the Minister, issue directions subject to the provisions of this Act, which shall apply to police officers and the officers of Armed Forces pertaining to the manner in which the provisions of this Act shall be enforced.

(2) The directions issued under subsection (1), shall be solely for the purpose of giving effect to the provisions of this Act, in an efficacious manner and, be in compliance with the Human Rights norms and standards recognized by law.

(3) For the purposes of this section the expression "law" includes international instruments which recognize human rights and to which Sri Lanka is a signatory.

(4) Every such direction shall be published in the *Gazette*.

Rehabilitation programmes.

94. (1) The President on the recommendation of the Minister may make Regulations to implement rehabilitation programmes for the persons in respect of whom the Attorney General has recommended suspension and deferment of criminal proceedings under section 72, or the Attorney General has withdrawn indictments under section 77.

(2) Regulations under subsection (1) shall include-

(*a*) objectives to be achieved by the conduct of the programme;

(*b*) nature of rehabilitation activities;

(*c*) nature of the training to be provided;

(*d*) the authority or authorities who conduct the rehabilitation or training;

(*e*) the location of the programme; and

(*f*) the duration of the programme.

This Act to prevail over other written law.

95. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

Judicial Review.

96. Nothing contained in this Act, shall be read and construed as preventing any person aggrieved by any decision, determination, order or direction, made by any relevant authority under this Act, seeking relief through judicial review, in terms of the provisions of the Constitution.

PART XII

REPEAL AND TRANSITIONAL

Repeal of Act, No.48 of 1979.

97. The Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, is hereby repealed.

Transitional provisions.

98. Notwithstanding the repeal of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (hereinafter referred to as the "repealed Act") -

(*a*) any trial, appeal or application held, preferred or made under the repealed Act and pending decision, in any court or with other authority, on the day immediately preceding the date of commencement of this Act shall be disposed of, continued, held or entertained, as nearly as may be practicable, under the provisions of the repealed Act including provisions pertaining to procedure and evidence;

(*b*) any person suspected of having committed or concerned in committing an offence under the repealed Act prior to the day immediately preceding the date of commencementof this Act, in respect of whom the proceedings have not been instituted as at the date of commencement of this Act, shall be prosecuted against, under the provisions of the repealed Act and the legal proceedings into any such offence shall be held by the relevant authority, as nearly as may be practicable, under the provisions of this Act:

Provided however, prior to filing the indictment for any such offence the Attorney General shall consider the possibility to suspend or defer criminal proceedings under section 72 of this Act;

(*c*) all sentences passed and any decree or order entered or made in any criminal proceeding under the repealed Act, immediately prior to the date of

commencement of this Act, shall be deemed, respectively to have been passed or made under the corresponding provisions of this Act and be enforced and given effect accordingly;

(*d*) all regulations and orders made under the provisions of the repealed Act, prior to the date of commencement of this Act, including but not limited to regulations proscribing any organization and including the Regulations published in *Gazette* Extraordinary No. 1721/2 of August 29, 2011, shall be deemed, to have been made under the corresponding provisions of this Act and be enforced and given effect accordingly.

Interpretation.

99. In this Act, unless the context otherwise requires-

"an aircraft" includes a helicopter;

"armed forces" means Sri Lanka Army established under the Army Act, No. 17 of 1949, Sri Lanka Navy established under the Navy Act (Chapter 358) and Sri Lanka Air Force established under the Air Force Act, No. 41 of 1949;

"coast guard" means the Department of Coast Guard established under the Department of Coast Guard Act, No. 41 of 2009;

"Code of Criminal Procedure Act" means the Code of Criminal Procedure Act, No. 15 of 1979;

"Commissioner General of Land" means the Commissioner General appointed under section 3 of the Land Development Ordinance (Chapter 464));

"Commissioner General of Motor Traffic" means the Commissioner General appointed under section 204 of the Motor Traffic Act (Chapter 203);

"Commissioner General for the Registration of Persons" means the Commissioner General appointed under section 3 of the Registration of Persons Act, No. 32 of 1968;

"confidential information" means-

(*a*) any information, the dissemination of which is likely to have an adverse impact on the security and the defence of Sri Lanka;

(*b*) any information not in the public domain, the dissemination of which is likely to have an adverse effect on national security or public security, relating to-

(i) the persons of the police, armed forces or Department of Coast Guard;

(ii) the functions, movements or whereabouts of a specified person;

(iii) a prohibited place or an approved place of detention;

(iv) the conduct of investigations into offences under this Act, findings of such investigations, persons arrested and detained and identity of officers conducting investigations;

(*c*) any information relating to the police or the armed forces, on the conduct of any official activity, including any law enforcement or military measure which is intended to be carried out or is being carried out, or has been carried out;

(*d*) any secret code, word, password or encryption detail relating to national security and defence;

"Controller of Immigration and Emigration" means the Controller appointed under section 4 of the Immigrants and Emigrants Act (Chapter 351);

"Controller of Imports and Exports" means the Controller appointed under section 2 of the Imports and Exports (Control) Act, No. 1 of 1969;

"curfew" means the prohibition of the presence, movement in or through a public place including any road, railway, tunnel, territorial sea, stream, park, market, seashore, and recreation area;

"designated non-finance business" has the same meaning assigned to that expression in the Financial Transaction Reporting Act, No. 6 of 2006;

"Director General of Customs" means the Director General appointed under section 2 of the Customs Ordinance (Chapter 235);

"Director of the Financial Intelligence Unit" means the Head of the Financial Intelligence Unit designated under the Financial Transaction Reporting Act, No. 6 of 2006;

"Director General of Intellectual Property of Sri Lanka" means the Director General appointed under section 2 of the Intellectual Property Act, No. 36 of 2003;

"Director General of the Securities and Exchange Commission of Sri Lanka" means the Director General appointed under section 42 of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;

"Director General of Telecommunications" means the Director General appointed under section 22B of the Sri Lanka Telecommunication Act, No. 25 of 1991;

"Evidence Ordinance" means the Evidence Ordinance (Chapter 14);

"gratification" has the same meaning assigned to such term in the Bribery Act (Chapter 26);

"Head of the Department of Foreign Exchange" means the Head of the Department of Foreign Exchange within the meaning of Foreign Exchange Act, No. 12 of 2017;

"Human Rights Commission" means the Human Rights Commission of Sri Lanka established under the Human Rights Commission of Sri Lanka Act, No. 21 of 1996;

"Minister" means the Minister assigned the subject of Law and Order;

"non-banking financial institution" has the same meaning assigned to such expression under the Financial Transaction Reporting Act, No. 6 of 2006;

"Penal Code" means the Penal Code (Chapter 19);

"Person"means an individual, group of individuals, an association, organization or body of persons;

"Police Ordinance" means the Police Ordinance (Chapter 53);

"proscribed terrorist organization" includes any organization proscribed under a regulation made in terms of the United Nations Act, No. 45 of 1968;

"Registrar of Companies" means the Registrar of Companies appointed under section 471 of the Companies Act, No. 7 of 2007;

"territory of the Republic of Sri Lanka" has the same meaning assigned to that expression under the Constitution;

"unmanned aerial vehicle" means a mechanized and / or automated flying object, which does not contain an ability to navigate such object by a human being from within the object, and which may or may not be navigated or controlled remotely;

"victim of an offence" means a person including a child victim who has suffered any injury, harm, impairment or disability whether physical or mental, emotional, economic or other loss, as a result of an act or omission which constitutes an alleged –

(*a*) offence under this Act; or

(*b*) offence under any other written law which has been committed in the course of committing an offence under this Act,

and includes a person who suffers harm as a result of intervening to assist such a person or to prevent the commission of an offence, and the parent or guardian of a child victim of an offence and any

member of the family and *next of kin* of such person, dependents and any other person of significant importance to that person;

"witness" means any person who-

(*a*) has provided information or lodged a complaint with any law enforcement officer and based upon such information or complaint, an investigation or inquiry could be commenced or has commenced or is likely to commence, in connection with the alleged commission of an offence under this Act;

(*b*) in the course of an investigation or inquiry conducted by a law enforcement officer, into the alleged commission of an offence under this Act has provided information or made a statement containing an account of matters in respect to which such person had been questioned;

(*c*) has provided an affidavit or submitted a statement in support of a complaint made or any legal action instituted by a victim of an offence under this Act;

(*d*) has provided information or any communication to a Commission;

(*e*) has reasonable grounds to believe that he shall be summoned by a Court or a Commission to make a statement or testify in any judicial or quasi-judicial

proceedings against a person, based on information provided or a statement made to a law enforcement officer or a Commission by such person;

(*f*) has received summons from a court or a Commission to make a statement, testify or produce any document, report or object in any judicial or quasi-judicial proceeding before such Court or Commission; or

(*g*) being a public officer, has investigated into the alleged commission of an offence under this Act,

and includes a victim of an offence, a child witness, the parent or guardian of a child witness, a family member or dependent of such witness or any other person of significant importance to such person, an expert witness and a person who has been summoned to testify before a Court or a Commission on behalf of a person suspected or accused of the alleged commission of an offence under this Act.

Sinhala text to prevail in case of inconsistency.

100. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

FIRST SCHEDULE [section 25(1)]

ACKNOWLEDGEMENT OF THE ARREST AND CUSTODY

1. Name of the person arrested:–
2. Date, Time and Place of arrest:–
3. Reasons for the arrest:–
4. Location of the proposed custody or detention of the person arrested:–
5. Name, identification number and rank of the arresting officer:–
6. Any other information as may be necessary for the next of kin of person arrested, to have reasonable access to him:–
7. Identity of the person to whom the acknowledgement is being issued:–
8. Date and place of issue of the acknowledgement:–
9. Name, designation and signature of the officer issuing the acknowledgement:–

SECOND SCHEDULE [section 25(4)]

NOTIFICATION OF THE ARREST TO THE HUMAN RIGHTS COMMISSION

1. Name of the person arrested:–
2. Date, Time and Place of arrest:–
3. Reasons for the arrest:–
4. Location of the place at which the suspect is being held in detention:–
5. Name, identification number and rank of the arresting officer:–
6. Name and designation of the officer in charge of the place of detention and his contact details:–
7. Any other information as may be necessary to enable the Human Rights Commission to have prompt access to the detainee:–

THIRD SCHEDULE [section 25(4)]

NOTIFICATION OF THE ARREST TO THE INSPECTOR GENERAL OF POLICE

1. Name of the person arrested:–
2. Date, Time and Place of arrest:–
3. Reasons for the arrest:–
4. Location of the place at which the suspect is being held in detention:–
5. Name, identification number and rank of the arresting officer:–
6. Name and designation of the officer in charge of the place of detention and his contact details:–

FOURTH SCHEDULE [section 31(1)(*b*)]

DETENTION ORDER

1. Number of the Detention Order:–
2. Name and designation of the officer issuing the Detention Order:–
3. Date and Place of issuing the Detention Order:–
4. Identity of the officer who requested the issue of the Detention Order and the date of the request and where applicable the reference number:–
5. Name of the person (suspect) in respect of whom the detention is being authorized:–
6. The place of authorized detention:–
7. The period of detention:–
8. The purpose for which detention of the suspect has been authorized:–
9. Conditions of detention:–

DEPARTMENT OF GOVERNMENT PRINTING

Places and Objects of Worship Bill

Decision of the Constitutional Court together with the reasons

Present:

JAYA PATHIRANA Esq. (Chairman)
C. V. UDALAGAMA Esq.
T. A. DE WIJESUNDERA Esq.

Mr. Prins Gunasekera, in person.

Mr. K. M. M. B. Kulatunga, Senior State Counsel with Mr. G. P. S. Silva, State Counsel for the Attorney-General.

June 15, 1973.

A Bill intituled the "Places and Objects of Worship Bill" was published n the Gazette of Sri Lanka (No. 8/60 and 41) on the 23rd of March 1973 n the orders of the Hon. Minister of Cultural Affairs.

The said Bill was placed on the agenda of the National State Assembly n 2nd May 1973.

Mr. Prins Gunasekera, M.P., of Kathaluwa, Ahangama, on the 3rd day f May 1973, submitted a petition in terms of Section 54 (2) (*e*) of the Constitution of Sri Lanka, stating that all the provisions of this Bill, articularly Clauses 2, 3, 4, 7 and 8 are inconsistent with Sections 6 and 18 f the Constitution of Sri Lanka on the various grounds stated by him.

The Constitutional Court by its order dated 28th May 1973 advised the Ion. Speaker that there were questions of inconsistency in the Bill with he Constitution of Sri Lanka as stated in the petition of Mr. Gunasekera.

The Hon. Speaker referred these questions to this Court on 2nd June 973. Written submissions were submitted by Mr. Gunasekera on 5th une 1973. Counter-submissions on behalf of the Attorney-General were ubmitted to this Court on the 9th of June 1973. Public Sittings of this Court were held on the 9th of June 1973 and on the 11th of June 1973.

The Bill seeks to prohibit the construction and establishment of any uilding, statue or other object or the conversion of any building for the urpose of being used as a place of public religious worship except under he authority of a licence issued by the Director of Cultural Affairs and to rovide for matters relating to the grant or refusal of applications for uch licences ; and to provide for matters connected with or incidental to he aforesaid matters.

The main provision of this Bill is in Clause 2 under which no person hall in or upon any land—

(a) construct, or cause to be constructed, or establish, or cause to be established, any building, statue or other object ; or

(b) convert, or cause to be converted, any building, for the purpose of being used as a place or object of public religious worship except under the authority of a licence issued by the Director of Cultural Affairs, hereinafter referred to as the "Director".

4—C 08020 (74/10)

One of the grounds on which Mr. Gunasekera attacks the Bill is that its provisions are inconsistent with Section 18 (1) of the Constitution of Sri Lanka, in that it offends against the fundamental rights and freedoms enacted therein, in particular 18 (1) (*d*) which refers to freedom of thought, conscience and religion, 18 (1) (*e*) which gives every citizen the right, by himself or in association with others to enjoy and promote his own culture, and 18 (1) (*g*) which gives every citizen the right to freedom of speech and expression, including publication. Mr. Gunasekera also states that provisions of this Bill are inconsistent with Section 6 of the Constitution which relates to Buddhism and which enacts that "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*)."

The main reason for his stating that they are inconsistent with the relevant provisions of the Constitution according to his petition are that they—

(i) result in the total destruction of a historical right and freedom that has been enjoyed by Buddhists for over 2500 years, of freely practising and propagating the Buddha Dhamma;

(ii) although reluctantly and unwillingly provision was made in the Constitution that Buddhism will be given the foremost place, relegate Buddhism to a lower position than that of parity of status with other religions;

(iii) 'protect and foster' Buddhism to such an extent that applications will have to be made to a non-Buddhist Director or a non-Buddhist Board of Appeal for permission to establish a Buddhist place of worship;

(iv) subject freedom of thought and independence of judgment which is one of the noblest characteristics of Buddhist culture to the discretion of the bureaucracy;

(v) destroy the freedom of thought, conscience and religion and the right and freedom of practising one's religious beliefs in community with others;

(vi) reflect a subtle, anti-religious, anti-cultural and undesirable policy on the part of the government in that they provide for the issue of official permits for the establishment and development of objects and places of worship in the same manner as users of opium are issued official permits thus regarding Buddhism as a form of opium in pursuance of certain political theories which adopt an anti-religious, anti-Buddhist attitude and are derived from anti-Buddhist philosophies based on greed, hatred and ignorance;

and for various other historical, social and cultural reasons.

Before we consider the grounds on which the Bill is being attacked on the ground of inconsistency with the Constitution, it will be useful to analyse the relevant provisions of the Constitution of Sri Lanka with which the

petitioner states the provisions of the Bill are inconsistent. We shall first deal with Section 18 (1) (*d*) which refers to freedom of religion. It states as follows:—

"every citizen shall have the right to freedom of thought, conscience and religion. This right shall include the freedom to have or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching;"

This fundamental right, however, is subject to Section 18 (2) which states as follows:—

"The exercise and operation of the fundamental rights and freedoms provided in this Chapter shall be subject to such restrictions as the law prescribes in the interests of national unity and integrity, national security, national economy, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others or giving effect to the Principles of State Policy set out in Section 16."

Section 18 (1) (*d*) is, in fact, divisible into two parts. The first can be stated as follows:—

"every citizen shall have the right to freedom of thought, conscience and religion. This right shall include the freedom to have or to adopt a religion or belief of his choice."

Under this part every person is free to think his own thoughts and to have his own opinions about religion and morality. It means that he has the right to worship according to the dictates of his own conscience and to maintain whatever theories or religion he professes. This is a matter of opinion and, as such, this freedom is an absolute one, and no restrictions can be imposed on it.

The other part of Section 18 (1) (*d*) refers to—

"the freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching;"

This refers to the practice and propagation of one's religion and the manifestation of one's religion or belief. The freedom of practising one's religion means the right to give expression in forms of private and public worship, that is, by overt acts. The freedom of conscience is meaningless unless it is supplemented by expression or manifestation of one's spiritual convictions in words and actions. The exercise and operation of this fundamental right, however, are subject to the restrictions imposed by Section 18 (2) particularly in the interests of public order, the protection of public health or morals or the protection of the rights and freedoms of others or giving effect to the Principles of State Policy set out in Section 16.

In fact, similar restrictions on the freedom to profess, practise and propagate one's religion are imposed under the following Constitutions:—

The Indian Constitution, under Article 25 (1), states as follows:

"Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to the freedom of conscience and to the right and freedom to profess, practise and propagate one's religion."

Article 20 of the Burmese Constitution, 1943, provides :

"All persons are equally entitled to the freedom of conscience and the right freely to profess and practise their religion, subject to public order, morality or health and the other provisions of this Chapter."

Article 44 (2) of the Constitution of Eire says :

"The freedom of conscience and the free profession and practice of religion are subject to public order and morality guaranteed to every citizen."

Although under the American Constitution there is no express provision that the freedom of conscience and the freedom to profess, practise and propagate one's religion is subject to public order, morality and health, yet by decisions of the American courts these restrictions have been imposed.

Our view is that the freedom of conscience and religion and the freedom to have and adopt a religion or belief of one's own choice is an absolute one, but that the freedom to manifest or practice one's religion by external expression is subject to the restrictions imposed under Section 18 (2) of the Constitution. We find support for this view in the judgment of Justice Roberts in the case of *Cantwell vs. Connecticut*, reported in 84 United States Supreme Court Reports (1939) Lawyers' Edition, at page 310. Dealing with the freedom of conscience and freedom to adhere to such religious organisation or form of worship as the individual may choose guaranteed by the Fourteenth Amendment, he states :

"The constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts,—freedom to believe and freedom to act. The first is absolute but in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection. In every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom. No one would contest the proposition that a state may not, by statute, wholly deny the right to preach or to disseminate religious views. Plainly such a previous and absolute restraint would violate the terms of the guaranty. It is equally clear that a state may by general and non-discriminatory legislation regulate the times, the places, and the manner of soliciting upon its streets, and of holding meetings thereon ; and may in other respects safeguard the peace, good order and comfort of the community, without unconstitutionally invading the liberties protected by the Fourteenth Amendment."

In the case of *Davies vs. Beason*, reported in 33 United States Supreme Court Reports (1890), page 333, it was held :

"However free the exercise of religion may be, it must be subordinate to the criminal laws of the country, passed with reference to actions regarded by general consent as properly the subject of punitive legislation."

In the result it was also held in this case that the First Amendment to the Constitution that Congress shall make no law seeking the establishment of religion or prohibiting free exercise thereof, cannot be invoked as protection against legislation for the punishment of bigamy and polygamy as crimes of all civilized Christian countries, that the exercise of religious practices cannot override the interests of peace, good order and morality.

In the case of *Reynolds vs. United States* (93 U.S. 145) where the punishment of polygamy was upheld, Waite C.J. there stated the effect of the provision in the following terms :—

"Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order ..... Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose that one believed that human sacrifices were a necesary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice ? ..... Can a man exercise his practices to the contraty (sc. of law) because of his religious belief ? To permit this would be to make the professed doctrines of religious belief superior to the law of the land and in effect permit every citizen to become a law unto himself. Government could exist only in name under such circumstances."

In *Saifuddin vs. Moosaji*, reported in 1953 All India Reporter, Bombay, 23 at 187, the following passage appears :—

"What the State protects is religious faith and belief. If religious practices run counter to public order, morality, health or a policy of social welfare upon which the State has embarked, then the religious practices must give way before the good of the people of the State as a whole ..... and if in the opinion of the Legislature such a religious practice runs counter to public order, morality, health or a policy of social welfare upon which the State has embarked, then the religious practices must give way and the legislation must prevail against the practice."

The same view was expressed in the case of the *State of Bombay vs. Narasu Appa*, reported in 1952 All India Reporter, Bombay, 82 at 84.

So that we have to consider in the instant case, firstly, whether any of the provisions of the impugned Bill are inconsistent with the freedom of conscience and religion which is an absolute freedom. Having perused all the provisions of the Bill we are satisfied that there is no inconsistency with this aspect of the fundamental right of freedom of thought, conscience and religion.

We have next to consider the question whether the construction and establishment of any building, statue or other object or the conversion of any building for the purpose of being used as a place or object of public religious worship, is a fundamental right coming within the second part of Section 18 (1) (d), namely, "to manifest his religion or belief in worship, observance, practice and teaching."

From the dim dawn of history, religion and religious practices ordained both by doctrine and tradition have played a large part in the lives of our people so much so, it has become difficult to say what is religion and

what is religious practice as they are both intermixed. Sometimes religious practice is taken by the bulk of our people as religious faith.

People belonging to different faiths for the purpose of worship construct buildings with statues and other objects. This has been done both for private religious worship and for public religious worship. We, therefore, concede that every citizen has a fundamental right, individually or in community with others, to worship in a building either in private or in public and to erect a building for this purpose or to erect a statue or other object or to convert any building for this purpose.

The next question is whether the operation of this fundamental right is subject to the restrictions imposed by Section 18 (2).

This Bill does not completely forbid the construction of a building, statue or other object, or the conversion of any building for the purpose of being used as a place or object of public religious worship. It merely imposes certain restrictions, firstly, under Clause 3 where it is stated that no such building, statue or other object shall be established or the site of the building converted for such purpose in any area declared to be an archaeological reserve for the purposes of the Antiquities Ordinance, and in any area in regard to which a planning scheme has been made under the Town and Country Planing Ordinance with the general object of preserving any place or structure of religious, historical, architectural, archaeological or artistic interest.

These are restrictions already imposed by existing laws and as such the operation of these laws is saved by Section 18 (3) of the Constitution which reads as follows:

> "All existing law shall operate notwithstanding any inconsistency with the provisions of subsection (1) of this section."

The next Clause which imposes a restriction in this Bill is Clause 5 which reads as follows:—

> "5. Where no objection is made in consequence of a notice given under subsection (1) of section 4 to the grant of an application for a licence under section 2, or where any such objection or objections is or are made and the Director after consideration of such objection or objections is satisfied that the grant of the application is not likely to cause or give rise to disturbances of public order, the Director shall issue to the applicant a licence in such form as he may determine and shall communicate in writing such decision to every person who objected to the grant of the application."

Under this Clause if no objections are received the Director must grant the application. If objections are received the Director, after making the investigations he is empowered to make under Clause 4, shall grant the application if he is satisfied that the grant of such application is not likely to cause or give rise to disturbances of public order. The only consideration under this Clause of the Bill that will guide the Director to refuse to grant a licence is where it is likely to cause or give rise to disturbances of public order. Such a consideration in our view falls within the ambit of Section 18 (2) of the Constitution. In granting or refusing the licence the Director does not apply a religious test of a discriminatory character.

We have also considered Mr. Gunasekera's submission that the provisions of the Bill are inconsistent with Section 18 (1) (e) and 18 (1) (g) of the Constitution. For the reasons we have set out above we see no inconsistency in the Bill with the aforesaid Sections of the Constitution.

The other ground on which the Bill is attacked is that it is inconsistent with Section 6 of the Constitution. Provisions similar to Section 6 of our Constitution are found in other Constitutions such as the Constitution of Eire, Article 44 (1) (2) of which says:

> "The State recognises the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the faith professed by the great majority of the citizens"

and the Constitution of Burma, Article 21 (1) of which declares:

> "The State recognises the special position of Buddhism as the faith professed by the great majority of the citizens of the Union."

Our Constitution goes further, namely, while giving Buddhism the foremost place, it states, " ..... 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)."

We are satisfied that there is nothing in the Bill which seeks to displace Buddhism from the foremost place it occupies. In fact, there is nothing in the Bill which refers to Buddhism as such anywhere. We are also of the view that there is nothing in the Bill which in any way interferes with the protection and fostering of Buddhism which Section 6 guarantees. On the other hand we are of the view that the passage of this Bill will guarantee the peaceful and orderly protection and fostering of Buddhism while assuring to all other religions the rights granted by Section 18 (1) (d) of the Constitution.

Mr. Gunasekera, in the course of his argument, submitted that the provisions of this Bill far from fostering Buddhism which the State has undertaken to do, will retard the progress of Buddhism in this country. It has been customary, he went on to say, for people to donate land for the construction of Buddhist temples. According to history and custom temples as such have not purchased property for the construction of other temples, but they had been dependent solely on gifts and donations made by the Buddhist laity. Once the public is aware that there is permission to be obtained from the Director before the fulfilment of their wish they will have misgivings about their donations thereby discouraging the people from making such donations.

This view of Mr. Gunasekera takes rather a pessimistic view of the objects of the Bill. The Bill as such does not either directly or by necessary implication restrict the right of any person to give land or donate land for the purpose of establishing a place of public worship for Buddhists. One might think that in the ordinary course of events such a wish of a donor will normally be fulfilled. But there is always the chance of an exceptional case of a wish being not fulfilled if due to certain circumstances the erection of a place of public worship according to the wishes of the donor would create a disturbance of the public order in which event the interests of public order will have to prevail over the wishes of the donor. That is the sole purpose of Clause 5 of the Bill.

Lastly, we may add that this is a country which is not only multi-racial but is also multi-religious. One of the Principles of State Policy enunciated in Section 16 (4) is—

"The State shall endeavour to strengthen National unity by promoting co-operation and mutual confidence between all sections of the People of Sri Lanka including the racial, religious and other groups."

Section 18 (2) states:

"The exercise and operation of the fundamental rights .... shall be subject to such restrictions .... in the interests of .... the protection of the rights and freedoms of others or giving effect to the Principles of State Policy set out in Section 16."

In our view this Bill, by restricting the indiscriminate construction of buildings and objects of public worship in a manner that will not promote discord and dissatisfaction among the adherents of different religions, will help promote the rights and freedoms of all religionists and will thereby give effect to one of the Principles of State Policy, namely, promoting co-operation and mutual confidence between all religious groups in this country.

Therefore, we hold that none of the provisions of the Bill entitled "Places and Objects of Worship Bill", and in particular, Clauses 2, 3, 4, 7, and 8 thereof, are inconsistent with Sections 6 and 18 of the Constitution of Sri Lanka or any of the other provisions of the Constitution of Sri Lanka.

JAYA PATHIRANA,
Chairman.

C. V. UDALAGAMA,
Member.

T. A. DE S. WIJESUNDERA,
Member.

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THE MADRASAH EDUCATION ORDINANCE, 1978

Ordinance No. IX of 1978

An

ORDINANCE

to reorganize Madrasah Education in Bangladesh

http://www.bmeb.gov.bd/downloads.html

[Published in the Bangladesh gazette, extraordinary, dated the 2nd March 1978]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTY OF LAW AND PARLIAMENTARY AFFAIRS

NOTIFICATION

Dacca, the 2nd March, 1978.

No. 237-Pub- The following Ordinance made by the President of the Peoples' Republic of Bangladesh, on the 27th February, 1978, is hereby published for general information:-

THE MADRASAH EDUCATION ORDINANCE, 1978

Ordinance No. IX of 1978

An

ORDINANCE

to reorganize Madrasah Education in Bangladesh.

WHEREAS it is expedient to reorganize Madrasah Education in Bangladesh;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975 and the 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

1. Short title:- This Ordinance may be called the Madrasah Education Ordinance, 1978.
2. Definitions:- In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "Alim Madrasah" means an institution recognised for Dakhil and Alim standards and affiliated to the Board;

(b) "Alim standard" means the standard in which Alim course of Madrasah Education for a period of two years is imparted;

(c) "Board" means the Bangladesh Madrasah Education Board established under this Ordinance;

(d) "Chairman" means the Chairman of the Board;

(e) "Dakhil Madrasah" means an institution recognized for Dakhil Standard and affiliated to the board;

(f) "Dakhil Standard" means the standard in which Dakhil Course of Madrasah education is imparted;

(g) "Fazil Madrasah" means an institution recognized for Dakhil, Alim and Fazil standards and affiliated to the Board;

(h) "Fazil standard" means the standard in which Fazil course of Madrasah education for a period of two years is imparted;

(i) "Furquania Madrasah" means an institution recognised for Ibtedayee standard and affiliated to the Board;

(j) "Ibtedayee Madrasah" means an institution recognized for Ibtedayee standard and affiliated to the board;

(k) "Ibtedayee standard" means the standard in which Ibtedayee course of Madrasah education is imparted;

(l) "Kamil Madrasah" means an institution recognised for Dakhil, Alim, Fazil and Kamil standards and affiliated to the Board;

(m) "Kamil standard" means the standard in which Kamil course of Madrasah education for a period of two years is imparted;

(n) "Madrasah" means a traditional religious institution of Islamic learning and includes Furquania Madrasah, Ibtedayee Madrasah, Dakhil Madrasah, Alim Madrasah, Fazil Madrasah and Kamil Madrasah;

(o) "Madrasah education" means education pertaining to ibtedayee standard, Dakhil standard, Alim standard, Fazil standard and Kamil standard and includes-

(i) reading of the Holy Qur'an;

(ii) Islamiat, that is, Tafsir, Hadith, Fiqh, Kalam, Usul, M`aqulat, Faraid and relevant subjects;

(iii) Humanities including Arabic language and literature, Islamic history, general history, Bengali language and literature;

(iv) Science;

(v) Commerce;

(vi) Agriculture;

(vii) Industry;

(viii) Military Science;

(ix) Health education including physical education; and

(x) such other types of technical and special education as the Board may, with the prior approval of the Government, determine;

(p) "member" means a member of the Board and includes the Chairman;

(q) "notification" means a notification published in the official Gazette;

(r) "prescribed" means prescribed by regulations made under this Ordinance;

President Secretary's Copy

(s) "President" means the President of Bangladesh;

(t) "Principal" means the head of the teaching staff of Kamil Madrasah by whatever style he may be designated;

(u) "regulations" means regulations made by the Board under this ordinance; and

(v) "Superintendent" means the head of the teaching staff of a Madrasah other than a Kamil Madrasah by whatever style he may be designated.

CHAPTER II

THE BOARD

3. **Establishment of the Bangladesh Madrasah Education Board.**—(1) As soon as may be after the commencement of this Ordinance, the Government shall, by notification, establish a Board to be called the Bangladesh Madrasah Education Board for the organization, regulation, supervision, control, development and improvement of Madrasah education in Bangladesh in accordance with the provisions of this Ordinance.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall have, subject to regulations, power to acquire and hold movable and immovable property, to transfer such property when held by it, to contract, and to do all other things necessary for carrying out the purposes of this Ordinance and shall by the said name sue and be sued.

(3) The powers of regulation, supervision, control; development and improvement of Madrasah education in Bangladesh shall vest in the Board.

4. **Composition of the Board.**—The Board shall be constituted with the following members, namely:—

(*a*) a Chairman to be appointed by the President;

(*b*) the Assistant Director of Public Instruction, in-charge of Madrasah Education, ex-officio;

(*c*) the Director of Technical Education, or an officer, not below the rank of Assistant Director of Technical Education, to be nominated by him;

(*d*) one person to be nominated by the Government from amongst the Chairmen of the Boards of intermediate and Secondary Education in Bangladesh,

(*e*) One person to be nominated by the Government from amongst the Heads of the departments of Arabic and Islamic Studies of the Universities in Bangladesh;

(*f*) one Principal of a Government Madrasah to be nominated by the Government;

(*g*) two Principals of non-government Madrasah to be nominated by the Government;

(*h*) two Superintendents of non-government Madrasah to be nominated by the Government;

(*i*) one Inspecting Officer to be nominated by the Government;

(*j*) Two persons specially devoted to the cause of Madrasah education to be appointed by the President.

5. Publication of names of members of the Board.— The name of every person nominated or appointed as a member shall, as soon as possible after his nomination or appointment, as the case may be, be published by notification.

6. Term of office of members of the Board.—(1) Subject to the provisions of this Ordinance, a member, other than the ex-officio member, shall hold office for term of three years from the date on which his name is published by notification under section 5 and may, on the expiration of such term, be eligible for re-appointment or re-nomination.

(2) A person nominated by the Government under clauses (d) to (i) of section 4 shall cease to be a member as soon as he ceases to hold the office by virtue of which he was nominated.

(3) Any member, other than the ex-officio member and the Chairman, may resign his membership by a letter addressed to the Chairman and, in the case of the Chairman; he may resign his membership by a letter addressed to the President:

Provided that the resignation shall not take effect until it is accepted by the President or the Government, as the case may be.

(4) The President or the Government may, at any time by order in writing, remove any member other than an ex-officio member appointed or nominated by him or it from his office if the President or, as the case may be, the Government considers such removal necessary or expedient in public interest or in the interest of the Board.

(5) The Government may, at any time by order in writing, remove the member nominated by the Director of Technical Education under clause (c) of section 4 from his office if it considers such removal necessary or expedient in public interest or in the interest of the Board.

7. Disqualification of membership.—(1) A person shall not be eligible for nomination or appointment as a member, if he—

(a) Has been adjudged-by a competent court to be of unsound mind;

(b) is an undercharged insolvent;

(c) Being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

(d) Has been convicted by a court of an offence involving moral turpitude, unless an offence of which he was convicted has been pardoned or unless five years have elapsed since the date of his conviction.

President's Secretariat Copy

(2) The nomination or appointment of a person who is, on the date of his nomination or appointment, subject to any of the disqualifications specified in sub-section (1), shall be invalid.

(3) If a member becomes subject to any of the disqualifications specified in sub-section (4) his membership shall thereupon cease.

8. Filling up of casual vacancies.—(1) Subject to the provisions of section 11, when the office of a member becomes vacant by resignation, death or otherwise, another person shall be nominated or appointed in his place in the manner provided in the appropriate clause of section 4 and such person shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

(2) Notwithstanding the expiration of the term of three years specified in sub-section (/) of section 6, a member shall continue to hold office until the vacancy caused by the expiration of the said term has been filled in accordance with the provisions of this Ordinance.

9. Officers of the Board.—the following shall be the officers of the Board namely: —

(a) The Chairman;

(b) The Registrar;

(c) The Controller of Examinations;

(d) the Inspector of Madrasah ; and

(e) such other officers as may be appointed by the Board.

10. Inspection,— (1) The Government may, with the approval of the President, cause an inspection by such person on it may direct of the office, activities and funds of the Board and the examinations conducted by the Board and may cause an enquiry to be made in respect of any matter concerning the Board. The Government shall communicate to the Board the result of such inspection or enquiry and may advise the Board as to the action to be taken within a specified time. The Board shall report to the Government, the action it proposes to take or has taken on such communication; and where the Board does not, within a reasonable time, take action to the satisfaction of the Government, the Government may, after considering any explanation given by the Board issue such directions as it may deem fit, and the Chairman shall comply with such directions.

(2) Without prejudice to the provisions of sub-section (1), the Government, with the prior approval of the President, may, by an order in writing, annul any proceeding of the Board or any of the Committees if 'the Government is satisfied that such proceeding is not in conformity with the provisions of this Ordinance:

Provided that, before making any such order, the Government shall, through the Chairman, call upon the Board or the Committee concerned to show cause why such an order should not be made.

11. Appointment, power and duties of the Chairman.—(1) The Chairman shall be a whole time officer of the Board and shall be appointed by the President on such terms and conditions as the President may determine.

(2) When the office of the Chairman falls vacant temporarily or otherwise, by reason of leave, illness or other cause for a period not exceeding one year, the President shall, notwithstanding anything contained in sub-section (1), make such arrangements for carrying on the duties of the office of the Chairman as he may deem fit.

(3) The Chairman shall be the principal executive and academic officer of the Board and shall, when present, preside at the meetings of the Board and the Committees appointed under section 18.

(4) It shall be the duty of the Chairman to ensure that the provisions of this Ordinance and the regulations are faithfully observed and carried out and he shall exercise all powers necessary for this purpose.

(5) In any emergency arising out of the administrative business of the Board and requiring, in the opinion of the Chairman, immediate action, the Chairman shall take such action as he may deem necessary and shall report the action so taken to the Board at its next meeting for information.

(6) The Chairman shall exercise such other powers as may be delegated to him by the Government or as may be prescribed.

12. Appointment of other officers and employees of the Board.—(1) Officers of the Board, other than the Chairman, shall be appointed by the Board in such manner as may be prescribed.

(2) All other employees of the Board shall be appointed by the Chairman in such manner as may be prescribed.

13. Terms and conditions of service of officers and employees of the Board.—Subject to the provisions of this Ordinance, the terms and conditions of service, including rules for disciplinary matters, granting of leave and for retirement of the officers and the employees of the Board shall be such as may be prescribed.

14. Casual vacancies in the posts of the officers of the Board other than the Chairman.— Temporary or casual vacancies in the posts of the officers of the Board other than the Chairman shall be filled up in such manner as may be prescribed.

15. Conduct of meetings.—The Chairman or, in his absence, one member elected from amongst those present at the meeting of the Board or of the Committee, shall preside at every meeting of the Board or the Committee and shall be entitled to vote on any matter and shall have and exercise a second or casting vote in every case of equality of votes.

16. Restriction on voting.—(1) No member shall vote on any matter coming before the Board or the Committee in respect of which (otherwise than in the general application thereof to all Madrasah) he has any personal interest.

(2) The Chairman or the presiding member, as the case may be, shall decide any question under sub-section (1) arising in a meeting and his decision shall be final.

17. Powers of the Board.—(1) Subject to the provisions of this Ordinance, the Board shall have power to organize, regulate, supervise, control, develop and improve Madrasah education.

(2) In particular and without prejudice to me generality of the power conferred by sub-section (1), the Board shall have power—

(*a*) to prescribe course of instruction for its examinations;

(*b*) to grant affiliation to or to withhold or withdraw affiliation from Madrasah after considering inspection reports from the Education Directorate or from the inspection reports of its own inspection officer" or officers deputed in that behalf by the Board.

(*c*) to prescribe conditions governing admission of students to and transfer of students from and to Dakhil Madrasah, Alim Madrasah, Fazil Madrasah and Kamil Madrasah;

(*d*) to prescribe the manner and mode of inspection of Madrasah;

(*e*) to cause inspection, if necessary, of any Madrasah affiliated to it by the officer of the Board or by any other person or persons it considers suitable;

(*f*) to hold, conduct and regulate examinations at the end of the Dakhil Alim, Fazil, Kamil, Mujawwide Maheer, Mujawwide Fazil and Mujawwide Kamil stages or any other stage thereof;

(g) to publish the results of examinations held by the Board;

(*h*) to grant sanads, diplomas and certificates, to persons who have passed the examination held by the board and to withdraw sanads, diplomas and certificates from them;

(*i*) to arbitrate or arrange for arbitration disputes between teachers and governing bodies or managing committees of Dakhil Madrasah, Alim Madrasah, Fazil Madrasah & Kamil Madrasah or among such Madrasah;

(*j*) to submit to the government its views or any matter with which it is concerned;

(*k*) to determine the number, designation and pay and allowances of the officers and employees of the Board, and to appoint such experts and consultants as it may consider necessary for the purposes of carrying out the provisions of this Ordinance;

(*l*) to regulate and decide all administrative matters including the creation and abolition of posts;

(*m*) to fix demand and receive such fees as may be prescribed;

(*n*) to hold and manage endowments and to institute and award scholarships, stipends, medals and prizes;

(*o*) to enter into and carry out contracts in exercise of powers and performance of duties assigned to it by this Ordinance and the regulations;

(*p*) to make provisions for buildings, premises, furniture, apparatus, books and other means needed for carrying on its work; and

(*q*) to do such other acts and things as it may consider necessary for carrying out the purposes of this Ordinance.

(3) The Board may delegate any of its powers to the Chairman or any other officer of the Board or to a Committee appointed under this Ordinance as it may deem fit:

Provided that no power to make any regulation shall be delegated under this sub-section.

18. Committees of the Board.—(7) The Board shall appoint the following Committees, namely:-

(*a*) Academic Committee;

(*b*) Finance Committee;

(*c*) Selection Committee;

(*d*) Regulation Committee;

(*e*) Appeal and Arbitration Committee;

(*f*) Curricula and Courses of Studies Committee;

(*g*) Science Education Committee;

(*h*) Technical Education Committee;

(*i*) Industrial Education Committee;

(*j*) Agricultural Education Committee;

(*k*) Commercial Education Committee;

(*l*) Physical Education Committee;

(*m*) Girls' Education Committee;

(*n*) Examination Committee;

(*o*) Age and Name Correction Committee;

(*p*) Recognition and Centre Committee;

(*q*) Discipline Committee; and

(*r*) such other Committee or Committees as the Board may consider necessary for the purposes of carrying out the provisions of this Ordinance.

(2) The composition, powers and duties of the Committees appointed under sub-section (1) shall be such as may be prescribed.

19. Meetings of the Board.—(1) the budget meeting of the Board shall be held on or before the 31st March every year.

President's Secretary's Copy

(2) No business shall be transacted at any meeting of the Board unless a quorum of five members is present:

Provided that no quorum shall be necessary for it meeting adjourned for want of quorum.

CHAPTER III

FINANCE

20. **Annual report and budget estimates.**— (1) The Registrar shall present to the budget meeting of the Board a report on the work of the Board during the last preceding financial year, together with a budget estimate showing, in the prescribed form, the anticipated income and expenditure of the Board during next succeeding financial year.

(2) The budget estimate shall, when confirmed by the Board, be forwarded to the Government for approval within such period as may be prescribed and thereupon the Government may either approve the budget estimate as submitted by the Board or make such modifications in it as the Government considers necessary after consulting the Chairman.

21. **Madrasah Education Fund.**— (1) There shall be constituted a fund to be called the Madrasah Education Fund to which shall be credited—

(a) all funds which stand transferred to the Board under section 43;

(b) all fees realised under any of the provisions of this Ordinance; and

(c) all sums representing income from endowments or from property owned or managed by (he Board for the purposes of this Ordinance;

(d) all other sums received by the Board from the Government or any other source for any purpose provided for in this Ordinance.

(2) The Madrasah Education Fund shall vest in the Board, shall be held by it in trust for the purposes of this Ordinance and shall be administered by it.

(3) All moneys payable to the credit of the Madrasah Education Fund shall forthwith be deposited into a scheduled bank approved by the Board, or into Government treasury.

22. Application of the Madrasah Education Fund. — (1) No expenditure shall be incurred from the Madrasah Education Fund except for the purposes of this Ordinance and unless such expenditure is provided for in the budget estimate approved by the Government under section 20 or it provided for by reappropriation by the Board.

(2) Subject to the provisions of sub-section (1), the Madrasah Education Fund shall be applied to—

(*a*) Payment of the cost of audit;

(*b*) Payment of salaries and allowances to the Chairman and other officers and employees of the Board;

(*c*) Payment of all expenses connected with printing of papers and other documents required for carrying out the purposes of this Ordinance;

(*d*) Payment of allowances to members of the Board and of the Committees;

(*e*) Payment of remuneration to such persons as may be appointed by the Board in connection with the holding and conducting the Board's examinations and of publication of the results thereof;

(*f*) Payment of contingent and capital expenditure; and

(*g*) payment of any other expenditure incurred by the Board in accordance with, and for the purposes of giving effect to, the provisions of this Ordinance.

23. **Accounts.**—The Board shall keep accounts of all its receipts and expenditure in such manner and form as may be prescribed.

24. **Audit.**—(1) the accounts of the Board shall be submitted to the Government once every year and examined and audited by an auditor appointed by the Government.

(2) It shall be the duty of the Board, and of every member, officer and employee thereof, to afford to the auditor every facility for the examination and audit of the accounts of the Board, and to comply with a requisition made by the auditor.

25. **Audit report.**—(1) The auditor shall submit to the Government a report on the audit of accounts and shall also submit two copies of such report to the Board and thereupon the Board shall, within such period as may be prescribed, forward one copy of the report together with its observations thereon to the Government.

(2) Subject to the provisions of section 27, the Government shall take such action on the audit report as it thinks fit.

26. Disallowance.—(1) the auditor shall—

(*a*) disallow any payment which has been made in contravention of any law for the time being in force, and charge it against the persons making or authorising such payment;

(*b*) charge the amount of any deficiency or loss against the person by whose default or negligence such deficiency or loss resulted;

(*c*) charge any sum which could have been, but has- not been brought into account against the person failing to account for it.

(2) The auditor shall, in every case of disallowance and charge under this section, certify in writing the amount due from the person against whom the charge is made and send a copy of such certificate to the Board and to the person concerned within fourteen days from the date on which the report referred to in sub-section (1) of section 25 is submitted to the Board.

27. **Appeal.**—(1) Any person from whom an auditor has certified any sum to be due under section 26 may, within one month from the date of receipt by him of a copy of the certificate, appeal against such order to the Government.

(2) The Government shall, on such appeal, make such order as it deem* fit after giving the person making the appeal an opportunity of being heard and the decision of the Government on such appeal shall be final.

28. **Payment of certified sum.**—*(1)* Every sum certified to be due under section 26 from any person shall, within one month from the receipt by such person of a copy of the certificate and unless within that period he makes an appeal under section 27, be paid by him into the Madrasah Education Fund.

(2) The Board may direct that any sum not paid in accordance with the provisions of sub-section (*1*) or, if any appeal has been made under section 27, such sum as the Government may order to be due, shall be recovered—

(a) in the case of a servant of the Government or an officer or other employees of the Board, by deduction from his salary in accordance with such conditions as may be prescribed, or as a public demand; and

(b) in any other case, as a public demand.

(3) The Deputy Commissioner shall, for the purpose of section 4 of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913), be deemed to be the person to whom such demand is payable and he shall pay to the Board and sum recovered by him in respect of any such demand.

CHAPTER IV
MISCELLANEOUS

29. General conditions of service of the teacher of Madrasah.—(I) An employee of an affiliated Madrasah shall be bound by the following general conditions of service, namely:—

(a) he shall not take part in, or subscribe in aid of, or assist in any way, any political movement, or any activities tending directly or indirectly to excite disaffection against the Government as by law established, or to promote feelings of hatred or enmity between different classes of citizens of Bangladesh, or to disturb the public peace;

(b) he shall not canvass, or interfere, or use his influence, or stand, as a candidate in any election to a local body or a legislative body in Bangladesh.

(2) Any person who contravenes any of the conditions of service under sub-section *(1)* shall be liable to disciplinary action including removal from his post by an order of the authority which appointed such person on proceeding initiated against him.

(3) Any person aggrieved by an order of the authority referred to in subsection (2) may appeal to the Chairman who may pass such order on appeal as he thinks fit and such order shall be final.

30. **Certain persons to be deemed to be public servants.**—every member of the Board and of every Committee appointed under this Ordinance, and every person appointed for carrying out the purposes of this Ordinance, shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

31. **Indemnity.**—*No* suit, prosecution or other legal proceedings shall lie against the Government or the Board or any Committee or any other person for anything in good faith done or intended to be done under this Ordinance.

32. **Validation.**—No act or proceedings taken under this Ordinance shall be invalid on the ground merely of—

(a) the existence of any vacancy in, or defect in the constitution of, the Board or any Committee constituted under this Ordinance;

(b) any member of the Board having voted on any matter in contravention of the provisions of section 16; or

(c) any detect or irregularity not affecting the merits, of the cases.

33. **Pension and Provident Fund or Contributory Provident Fund.**— *(1)* The Board shall establish for the benefit of its officers and employees either Pension and Provident Funds or Contributory Provident Fund only as it may deem fit in such manner, and subject to such conditions, as may be prescribed.

(2) In case the Board establishes a Contributory Provident Fund under sub-section *(1)*, all officers and employees of the Board shall subscribe to that Fund a sum equal to 8.5 per cent of his salary every month and the Board shall contribute an equal amount in respect of such subscriber every mouth.

(3) The terms and conditions of deposits of subscriptions and contributions to the Fund and withdrawals and advances from such Fund shall be such as may be prescribed.

34. **Age of retirement.**—Except the Chairman, every officer and employee of the Board shall retire in the afternoon of the day on which he attains the age at which a Government servant retires.

35. **Gratuity.**—*(1)* The Board shall provide for the officers and employees meeting with untimely death or disabled by accident or illness during service, a gratuity equivalent to one month's pay for each completed year of his service under the employment of the Board.

(2) The terms and conditions of gratuity under sub-section (1) shall be such as may be prescribed.

36 **Members prohibited from entering into contract with the Board.**—No member shall enter into any contract with the Board directly or through any other person in connection with the affairs of the Board.

37. **Bar against membership of the Board or Committee on the person with financial interest in the affairs of the Board.**— No person who has any financial interest in any book prescribed by the Board as a course of study for any examination conducted by the Board or has a financial interest as a partner or otherwise in any firm which publishes, procures or supplies any such book, shall be eligible to become a member of the Board or a Committee appointed under this Ordinance and continue as such after having acquired any such interest.

38. **Regulations.**—(1) The Board may, with the previous approval of the Government, make regulations for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the power conferred by sub-section *(1)*, the Board may make regulations providing for all or any of the following matters, namely:—

(i) the powers and duties of the officers of the Board;

(ii) the conduct of the meetings of the Board and of the Committees;

(iii) the grant and withholding of *sanads*, diplomas and certificates;

(iv) the curricula and the courses of study to be prescribed for obtaining *sanads*, diplomas and certificates;

(v) for granting or withholding affiliation to Madrasah and for withdrawal of such affiliation;

(vi) the constitution, powers and duties of the Governing Bodies of affiliated non-Government Kamil Madrasah and Fazil Madrasah and Managing Committees of affiliated non-Government Dakhil Madrasah and Alim Madrasah;

(vii) the terms and conditions of service of the teachers of affiliated non-Government Madrasah;

(viii) the conditions under which candidate:, shall be admitted to the examinations of the Board and shall be eligible for *sanads*, diplomas and certificates;

(ix) the manner and mode of inspection;

(x) the fixing and receiving fees for admission to the examinations of the Board and for other purposes;

(xi) the holding and conducting of all examinations of the Board;

(xii) acquisition, possession and transfer of property by the Board, the conditions of such acquisition, possession and transfer or any other act referred to in sub-section (2) of section 3;

(xiii) manner of appointment of the officers of the Board, other than the Chairman, by the Board;

(xiv) manner of appointment of the employees of the Board, other than its officers, by the Chairman;

(xv) terms and conditions of service, including disciplinary matters, grant of leave and retirement of the officers and employees of the Board;

(xvi) manner of filling up temporary and casual vacancies in the posts of the officers of the Board under section 14;

(xvii) form for showing anticipated income and expenditure of the Board and the period within which the budget estimate shall be forwarded to the Government,

(xviii) the framing of an Accounts Manual or the prescription of the manner and form of keeping accounts of receipts and expenditures of the Board;

(xix) period within which the copy of the audit report together with the observation' of the Board shall be forwarded to the Government;

(xx) manner and conditions of benefit from Pension fund, Provident Fund or Contributory Provident Fund only;

(xxi) terms and conditions of gratuity;

(xxii) traveling allowance and daily allowance of the members for attending meetings of the Board and Committees;

(xxiii) period within which observations of the Board on the audit report is to be furnished to the Government under section 25; and

(xxiv) all other matters which are to be or may be prescribed by regulations.

(3) All regulations made under this section shall be published in the official Gazette and shall come into force on such publication.

39. **First regulations.**—the regulations set out in the Schedule appended to this Ordinance shall, on the commencement of this Ordinance, be the first regulations of the Board and shall be deemed to have been made by the Board under section 38.

40. **Rules.**—The Committees appointed by the Board may, subject to the approval of the Board, make rules consistent with this Ordinance and the regulations—

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum; and

(b) providing for all matters solely concerning such Committees and not provided for by this Ordinance and the regulations.

41. **Transitional provision.**—Till such time all the members, other than the Chairman, are not nominated or appointed, the Chairman shall, subject to such general or special orders as the Government may give from time to time, exercise all the powers and perform all the duties of the Board and its Committees appointed under this Ordinance.

42. **Removal of difficulty.**—If any difficulty arises with respect to the establishment of the 'Board or hi connection with the first meeting of the Board or otherwise in first giving effect to the provisions of this Ordinance, the Government may make any order consistent with the provisions of this Ordinance, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

43. **Dissolution of the Madrasah Education Board, etc.**—Upon the establishment of the Board, the Madrasah Education Board functioning immediately before the commencement of this Ordinance, hereinafter referred to as the dissolved Board, shall stand dissolved, and upon such dissolution,—

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(a) all assets, rights, powers, authorities and privileges, and all property, movable or immovable, cash and bank balances, funds, investments and all other interests and rights in, or arising out of, such property of the dissolved Board subsisting immediately before its dissolution shall stand transferred to, and vested in, the Board,

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the dissolved Board before its dissolution, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(c) services of all officers and employees of the dissolved Board shall, notwithstanding anything contained in any contract or agreement or in the terms and conditions of service, stand transferred to the Board and they shall be deemed to be officers and employees of the Board appointed by it on the same terms and conditions of service as were applicable to them in the dissolved Board unless such terms and conditions are altered, not being to their disadvantage, by the Board;

(d) all suits and other legal proceedings instituted by or against the dissolved Board before its dissolution shall be deemed to have *been* instituted by or against the Board.

THE SCHEDULE

The First Regulations of the Board

1. **Powers and duties of the Chairman.**—(1) The Chairman may forward any resolution or order of the Board, or of any Committee appointed under this Ordinance, to the Government with his recommendations thereon for such order as the Government may deem fit and, pending the rejection of the order of the Government on such resolution or order, the Chairman may withhold the execution of any such resolution or order.

(2) The Chairman shall do all acts to ensure that the officers and employees of the Board properly perform the duties entrusted to them and, in particular, he shall—

(a) write confidential reports on the conduct, character and efficiency of the officers of the Board-

(b) recommend to the Board any disciplinary action that he considers necessary against any officer of the Board; and

(c) take such disciplinary action as he considers necessary against other employees of the Board subject to the right of appeal to the Board.

(3) The Chairman shall countersign traveling allowance bills of the officers and members of the Board (including his own) and members of the Committees, appointed under the Ordinance.

(4) For the purpose of carrying out the provisions of the Ordinance, the Chairman shall have the power to inspect, or cause an inspection to be made by an officer of the Board or such person or persons as he may consider suitable into the affairs of any Madrasah affiliated to, or which has made an application for affiliation to, the Board and to cause an enquiry to be made in like manner in respect of any matter concerning the Board.

(5) The Chairman shall appoint Paper-setters, Moderators, Translator Examiners, Head Examiners, Assistant Head Examiners, and Scrutinizers Tabulators in connection with the examinations of the Board after considering the recommendations of the Examination Committee.

(6) The Chairman shall sign and grant sanads to the persons who have passed the Kamil examination.

(7) The Chairman may delegate in writing to the officers of the Board such of his powers as he considers necessary provided it is not inconsistent with the provisions of the Ordinance or the regulations.

2. **Powers and duties of *the* Registrar.**—(1) The Registrar shall, subject to the control of the Chairman, be in charge of the Board's office and shall cause the orders and decisions of the Board and the Chairman to be carried out.

(2) The Registrar shall exercise and perform the following powers and duties, namely:—

(*a*) he shall take all possible steps to ensure that the funds of the Board are spent on the purposes for which they are provided;

(*b*) he shall cause to be prepared and submit to the Board for approval the annual statement of accounts and budget estimates;

(*c*) he shall convene all meetings of the Board and Committees under the direction of the Chairman. While preparing the agenda for meeting of the Board or a Committee, he shall carry out the direction of the Chairman given in this respect and no item shall be placed on such an agenda or be considered in the meeting without previous permission of the Chairman;

(*d*) he shall conduct the official correspondence of the Board under the authority of the Chairman except the correspondence relating to the conduct of examination and shall record the minutes and maintain the records of the proceedings of the meetings of the Board and the Committees;

(*e*) all fees and dues payable to the Board, and all sums received by the Registrar, shall be credited without delay to the account of the Board in a scheduled bank approved by the Board or in the Government Treasury;

(*f*) he shall be the disbursing officer of the employees of the Board and shall be responsible for proper deduction and recoveries and see that such amounts are credited to the appropriate head of account of the Madrasah Education Fund;

(*g*) he shall be the drawing officer and shall, jointly with the Chairman, sign all cheques above Taka 500; and all cheques of Taka 500 and below shall be signed by the Registrar alone;

(*h*) he shall be the custodian of the imprest cash of Taka 2,500 of the Boa'd and shall incur normal expenditure not exceeding Taka 500 for each item at a time. For any unusual expenditure and any normal expenditure exceeding Taka 500, prior approval of the Chairman shall have to be obtained before it is incurred;

(*i*) subject to the conditions laid down in clause' (H), he shall draw and disburse all contingent and other bills;

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(*j*) he shall be the controlling officer for the purpose of traveling allowance in respect of the employees of the Board;

(*k*) he shall perform such other duties as may be assigned to him by the Chairman.

(3) Not withstanding anything to the contrary in this regulation, the Board may assign to any other officer or officers such duties of the Registrar as it may, from time to time, deem necessary.

3. **Powers and duties of the Controller of Examinations.**—*(1)* The Controller of Examinations shall, subject to the control of the Chairman, be in-charge of the examination section of the Board and make all necessary arrangements for the holding and conduct of examinations of the Board.

(2) In particular and without prejudice to the generality of the foregoing provision, the Controller of Examinations shall exercise and perform the following powers and duties, namely:—

(*a*) he shall receive and deal with the applications for admission to the examinations of the Board and carry on all correspondence connected with such examinations and issue necessary documents as admissible under the regulations;

(*b*) he shall be responsible for—

(*i*) getting the question papers set in time, translated, moderated and printed and their safe custody and secrecy of the contents at all stages:

(*ii*) proper distribution of question papers and examination materials to all examination centers in time;

(*iii*) collection of all answer scripts, surplus examination materials and records and other documents from all centers;

(*iv*) holding of the examiners' meetings, distribution of answer scripts to the examiners and collection of the marked answer scripts together with marks sheets from all examiners:

(*v*) distribution of the marked answer scripts to the Head Examiners, collection of marks from them and distribution of marks to the respective Tabulators;

(*vi*) collection of tabulated results from the Tabulators:

(*vii*) publication of results of the examination in time; and

(*viii*) issue of certificates and diplomas to the successful candidates in time;

(*c*) he shall sign all Dakhil. Alim and Fazil certificates and diplomas:

Provided that power to issue certificates may be delegated to Deputy Controller of Examinations or Assistant Controller of Examinations by the Board

(*d*) he shall be responsible for ensuring and maintaining strict secrecy of all information regarding the examinations of the Board;

(*e*) he shall place the recommendations of the Examination Committee before the Chairman on—

(i) the selection of centers of examinations including opening of new and closing of old centers of examinations where necessary, and

(ii) such other matters as he may deem necessary and as may b required of him be the Chairman;

(f) he shall perform such other duties as may be assigned to him by the Chairman;

(g) he shall bring to the notice of the Chairman all cases of infringement of rules of examinations with full report for disposal;

(h) he shall attend all meetings in which matters relating to the examination of the Board are included in the agenda.

4. **Constitution Powers and Functions of the Academic Committee.-**

The Academic Committee shall consist of—

(*a*) the Chairman, *ex-officio;*

(*b*) the Assistant Director of Public Instruction, In-charge of Madrasah Education, *ex-officio;*

(*c*) the Director of Technical Education or the officer nominated by him under clause (c) of section 4, *ex-officio;*

(*d*) the Chairman, Bangladesh School Text Book Board or an officer of the Bangladesh School Text Book Board to be nominated by him;

(*e*) the person nominated by the Government under clause (e) of section 4, *ex-officio;*

(*f*) the person nominated by the Government under clause (f) of section 4 *ex-officio.*

(g) two persons can be nominated by the Chairman from amongst the Principals of non-Government Madrasah;

(*h*) one person to be nominated by the Government from amongst the Principals of Government degree colleges;

(*i*) one person to be nominated by the Chairman from amongst the Superintendents of non-Government Madrasah; and

(*j*) three specialists to be nominated by the Government including specialist in training of teachers.

(2) The Registrar of the Board shall be the Secretary of the Academic Committee.

(3) The members of the Academic Committee, other than the ex-officio members, shall hold office for a period of two years.

(4) The quorum for a meeting of the Academic Committee is five.

(5) The Academic Committee shall have the power of general regulation and supervision of, and the responsibility for, maintenance of the standard of teaching and examinations.

(6) Without prejudice to the generality of the provisions of sub-regulations (5) the Academic Committee shall exercise and perform the following powers and duties, namely:—

(a) it shall maintain standards of teaching and examinations;

(b) it shall determine the subject or subjects which shall be assigned to each Curricula and Courses of Studies Committee;

(c) it shall advise the Chairman on the qualifications of the teachers and examiners;

(d) it shall advise the Board on all academic matters including the general scheme of studies for an examination, the number of subjects to be included in an examination the value of each

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subject in respect of marks to be assigned to it, conditions to be fulfilled for passing an examination and for being placed in a particular division.

5. **Constitution and Functions of the Curricula and Courses of Studies Committees.**—(1) There shall be a Curricula and Courses of Studies Committee for each subject or a group of allied subjects included in the courses of studies organised by the Board. Each such Committee shall consist of the following:—

(*a*) the Chairman, *ex-officio*',

(*b*) two teachers of the subject at the Kamil stage nominated by the Academic Committee;

(*c*) two teachers of the subject at the Fazil stage nominated by the Academic Committee;

(*d*) two persons having experience of Madrasah education nominated by the Board;

(*e*) one expert in the subject nominated by the Chairman; and (f) the Registrar of the Board, *ex-officio:*

Provided that if in a subject the required number of teachers is not available, the Chairman may decide the number of members of the Curricula and Courses of Studies Committee for the subject concerned which may be less than nine and may permit the nomination of suitable persons, who are not teachers, as members of the particular Curricula and Courses of Studies Committee.

(2) The members of the Curricula and Courses of Studies Committee, other than the ex-officio members shall hold office for a period of two years.

(3) The Curricula and Courses of Studies Committee shall consider academic matters relating to the subject or subjects with which it is concerned and shall recommend to the Academic Committee the courses of study and text-books to be prescribed as well as the conditions to be fulfilled for passing the relevant examination in the subject or subjects.

(4) Three members shall form the quorum at a meeting of the Curricula and Courses of Studies Committee.

6. **Constitution and Functions of the Finance Committee.**—(1) The Finance Committee shall consist of—

(*a*) the Chairman *ex-officio;*

(*b*) the Assistant Director of Public Instruction, In-charge of Madrasah Education, *ex-officio;*

(*c*) one member to be nominated by the Board;

(*d*) two persons to be nominated by the Government;

(*e*) the Registrar of the Board, *ex-officio,* who shall be member-Secretary.

(2) Three members shall form the quorum at a meeting of the Finance Committee.

(3) The Finance Committee shall have the power—

(*a*) to prepare the budget estimates (of the Board and to revise it when necessary;

(*b*) to recommend transfer of budget provision from one head to another by reappropriation during the year as and when necessary;

(*c*) to recommend sanction of any special item of expenditure not provided for in the budget estimate or special rate of traveling allowance to distinguished visitors or expert?;

(*d*) to review the financial position of the Board periodically and make recommendations to the Board for improving its finances:

(*e*) to supervise the accounts of the Board from time to time and recommend appointment of internal auditors when necessary;

(*f*) to lay down the manner in which the budget of the Board shall be prepared and accounts of the Board shall be kept in accordance with the regulations:

(*g*) to recommend changes in, and addition to, the regulations connected with financial matters;

(*h*) to consider audit reports and to recommend action thereon; and

(*i*) to consider any matter referred to it by the Chairman and recommend action thereon.

(4) The members of the Finance Committee, other than the *ex-officio* members, shall hold office for a period of two years.

7. **Constitution and Functions of the Selection Committee.**—(1) The Selection committee shall consist of—

(a) the Chairman, *ex-officio*;

(b) the Assistant Director of Public Instruction, In-charge of Madrasah Education, ex-officio,

(c) two persons to be nominated by the Government; and

(d) the Chairman of the Board of Intermediate and Secondary Education in Bangladesh nominated by the Government under clause (d) of section 4, ex-officio.

(2) The Selection Committee shall recommend the appointment and scale of pay of officers and employees of the Board whose scale of pay carry initial salary of Taka 375 or more.

(3) Three members shall form the quorum at a meeting of the Selection Committee.

(4) The members of the Selection Committee, other than the ex-officio' members, shall hold office for a period of two years.

(5) Subject to the provisions of this regulation, the Chairman shall form a Selection Committee consisting of not less than five members including the senior officers of the Board for selection of persons for appointment and promotion of employees of which he is the appointing authority.

8. **Appointment of Sub-Committee, etc.**—(1) A Committee may constitute a Sub-Committee and assign to it such functions as it may deem fit.

(2) When a person ceases to be a member of a Committee, he shall cease to be member of any Sub-Committee of which he is a member by virtue of his membership of that Committee.

9. **Affiliation, etc., of Madrasah.**—(1) The Board shall grant affiliation to the Kamil Madrasah and permit introduction of group or groups of courses of studies in them and shall also grant permission to open Kamil classes in Fazil Madrasah if it is satisfied on receipt of reports of inspection that the conditions prescribed for such affiliation or permission are satisfactorily fulfilled. The Board may, if it considers necessary, arrange a special inspection of a Kamil Madrasah and also a Fazil Madrasah

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desirous of opening Kamil classes therein by its Inspection Committee or any officer appointed by the Chairman in that behalf.

(2) Any Fazil Madrasah seeking, permission for opening Kamil classes therein and, in the case of a Kamil Madrasah, seeking permission for opening new group of courses of studies of Kamil standard, shall be inspected jointly by the Director of Public Instruction and a person or persons deputed by the Board for the purpose.

(3) The Board shall grant affiliation to Dakhil Madrasah, Alim Madrasah, Fazil Madrasah, Ibtedayee Madrasah and Furquania Madrasah if it is satisfied on receipt of reports of inspection from the Education Directorate that the conditions prescribed for such affiliation are satisfactorily fulfilled. The Board may, if it considers necessary, arrange a special inspection of such Madrasah by its own officer or an expert appointed by the Chairman or jointly by both.

(4) The authorities of affiliated Dakhil, Alim or Fazil Madrasah shall not open the next higher class without prior permission of the Board. The registrar may request the respective Deputy Director of Public Instruction to arrange the inspection of such Madrasah on receipt of applications from the Madrasah authorities concerned.

(5) The affiliation of any Madrasah or recognition of any standard or subjects of studies or group of courses of studies in it may be cancelled by the Board and the permission already accorded for upgrading the standard of any Madrasah or introduction of a subject of study or a group of courses of studies, may be withdrawn by the Board if, on receipt of reports of inspection, it is satisfied that the conditions necessary for affiliation or permission have ceased to be fulfilled by such Madrasah.

(6) The inspection report in respect of Dakhil, Alim or Fazil Madrasah of the District Education Officer or any other inspecting officer not below the rank of Sub divisional Education Officer shall be submitted to the Board through the Deputy Director of Public Instruction of the Division concerned.

10. Madrasah to seek affiliation.—(7) All Madrasah imparting Madrasah education up to Dakhil, Alim, Fazil or Kamil standard immediately before the commencement of the Ordinance shall seek affiliation to the Board within six month from the date of such commencement.

(2) A Madrasah established^ after the commencement of the Ordinance may make application for affiliation to the Board at least six months before the ensuing session.

DACCA;
The 27th February, 1978.

ZIAUR RAHMAN, BU;
MAJOR GENERAL,
President

K. M. HUSAIN
Deputy Secretary.

MAINTENANCE OF RELIGIOUS HARMONY ACT

(CHAPTER 167A)

(Original Enactment: Act 26 of 1990)

REVISED EDITION 2001

(31st July 2001)

An Act to provide for the maintenance of religious harmony and for establishing a Presidential Council for Religious Harmony and for matters connected therewith.

[31st March 1992]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Maintenance of Religious Harmony Act.

Interpretation

2. In this Act, unless the context otherwise requires —

"Council" means the Presidential Council for Religious Harmony constituted under section 3;

"Presidential Council for Minority Rights" means the Presidential Council for Minority Rights constituted under Part VII of the Constitution of the Republic of Singapore;

"publication" includes any newsletter, journal, periodical, book, film, videotape, audio tape or any written, pictorial, aural or printed matter containing any audio or visible representation which by its images, form, shape or sound or in any other manner is capable of suggesting words or ideas, and every copy and reproduction or substantial reproduction of any publication;

"religious institution" includes a church, cathedral, chapel, sanctuary, mosque, surau, temple, synagogue or other place of worship;

"religious group" includes —

(*a*) any company or other body corporate incorporated under the Companies Act (Cap. 50) or any other written law for the purpose of promoting any religion, religious worship or dealing with religious affairs or practising, conducting, teaching or propagating any religious belief; and

(*b*) any body of persons, whether or not registered as a society under the Societies Act (Cap. 311), whose object is the promotion of any religion, religious worship or the practice, conduct, teaching or propagating of any religious belief.

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PART II

ESTABLISHMENT OF PRESIDENTIAL COUNCIL FOR RELIGIOUS HARMONY

Establishment of Council

3.—(1) There shall be a Presidential Council for Religious Harmony comprising a chairman and not less than 6 and not more than 15 other members.

(2) Not less than two-thirds of the members of the Council shall be representatives of the major religions in Singapore and the other members shall be persons who, in the opinion of the Presidential Council for Minority Rights, have distinguished themselves in public service or community relations in Singapore.

(3) The chairman and every member of the Council shall be appointed by the President, on the advice of the Presidential Council for Minority Rights, for a period of 3 years all of whom shall be eligible for reappointment.

(4) Notwithstanding subsection (3), a member, other than the chairman, may be appointed for any shorter period of not less than one year.

(5) The President may, after consultation with the Presidential Council for Minority Rights, at any time revoke the appointment of the chairman or any member of the Council and may, on the advice of the Presidential Council for Minority Rights, appoint any person to fill any vacancy which may arise in the Council for any reason whatsoever.

(6) The President may, acting in his discretion, refuse to appoint any person as chairman or member of the Council or to revoke any such appointment if he does not concur with the advice or recommendation of the Council.

[11/91]

(7) No person shall be qualified to be appointed as a member of the Council unless he is —

(*a*) a citizen of Singapore;

(*b*) not less than 35 years of age;

(*c*) resident in Singapore; and

(*d*) not liable to any of the disqualifications provided in subsection (8).

(8) A person shall be disqualified for appointment as a member of the Council who —

(*a*) is mentally disordered and incapable of managing himself or his affairs;

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(*b*) is insolvent or an undischarged bankrupt;

(*c*) has been convicted of an offence by a court in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than $2,000 and has not received a free pardon, except that where the conviction is by a court in Malaysia, the person shall not be so disqualified unless the offence is also one which, had it been committed in Singapore, would have been punishable by a court in Singapore; or

Secrecy

7.—(1) Except as provided under section 15, the proceedings of the Council shall be secret.

(2) No member or officer of the Council shall disclose or divulge to any person, other than the President, the Minister, the Secretary or any member of the Council, any matter which has arisen at any meeting of the Council unless he is expressly authorised to do so by the Minister.

PART III

RESTRAINING ORDERS

Restraining orders against officials or members of religious group or institution

8.—(1) The Minister may make a restraining order against any priest, monk, pastor, imam, elder, office-bearer or any other person who is in a position of authority in any religious group or institution or any member thereof for the purposes specified in subsection (2) where the Minister is satisfied that that person has committed or is attempting to commit any of the following acts:

(*a*) causing feelings of enmity, hatred, ill-will or hostility between different religious groups;

(*b*) carrying out activities to promote a political cause, or a cause of any political party while, or under the guise of, propagating or practising any religious belief;

(*c*) carrying out subversive activities under the guise of propagating or practising any religious belief; or

(*d*) exciting disaffection against the President or the Government while, or under the guise of, propagating or practising any religious belief.

(2) An order made under subsection (1) may be made against the person named therein for the following purposes:

(*a*) restraining him from addressing orally or in writing any congregation, parish or group of worshippers or members of any religious group or institution on any subject, topic or theme as may be specified in the order without the prior permission of the Minister;

(*b*) restraining him from printing, publishing, editing, distributing or in any way assisting or contributing to any publication produced by any religious group without the prior permission of the Minister;

(*c*) restraining him from holding office in an editorial board or a committee of a publication of any religious group without the prior permission of the Minister.

(3) Any order made under this section shall be for such period, not exceeding 2 years, as may be specified therein.

(4) Before making an order under this section, the Minister shall give the person against

(*d*) has voluntarily acquired the citizenship of, or exercised the rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

(9) A member shall vacate his seat in the Council if —

(*a*) he ceases to be a citizen of Singapore;

(*b*) by writing under his hand addressed to the chairman he resigns his seat; or

(*c*) he becomes subject to any of the disqualifications provided in subsection (8).

Functions of Council

4.—(1) The functions of the Council shall be —

(*a*) to consider and report to the Minister on matters affecting the maintenance of religious harmony in Singapore which are referred to the Council by the Minister or by Parliament; and

(*b*) to consider and make recommendations on orders referred to the Council by the Minister under section 11.

(2) The Council shall have the power to appoint a Secretary to the Council and such other officers as may be required to enable the Council to carry out its functions under this Act.

(3) The Council may, subject to the provisions of this Act, regulate its own procedure.

(4) The Council shall not transact any business unless a quorum of not less than half of its members, including the chairman or member presiding, is present.

(5) The chairman, if present, shall preside at all meetings of the Council.

(6) Whenever the office of chairman is vacant or the chairman for any reason is unable to attend a meeting, such other member as the members present shall elect shall preside at the meeting.

Validity of Council's actions

5.—(1) The Council may, subject to section 4(4), transact its business notwithstanding any vacancy among its members.

(2) The proceedings or any decision of the Council shall be valid notwithstanding any defect in the appointment of its members or that some person who was not entitled to do so took part in its proceedings.

Members are public servants and protected from legal action

6.—(1) Every member or officer of the Council shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

(2) Nothing done by any member or officer of the Council in good faith and in the discharge of the powers and functions of the Council shall render him liable to any suit or action.

whom the order is proposed to be made and the head or governing body or committee of management of the religious group or institution which is to be named in the proposed order, notice of his intention to make the order together with the grounds and allegations of fact in support thereof and of their right to make written representations to the Minister.

(5) The Minister shall have regard to such representations in making the order.

(6) All written representations under subsection (4) must be made within 14 days of the date of the notice of the Minister's intention to make an order under this section.

Restraining orders against other persons

9.—(1) Where the Minister is satisfied that —

(*a*) any person is inciting, instigating or encouraging any religious group or religious institution or any person mentioned in subsection (1) of section 8 to commit any of the acts specified in that subsection;

(*b*) any person, other than persons mentioned in subsection (1) of section 8, has committed or is attempting to commit any of the acts specified in paragraph (*a*) of that subsection,

he may make a restraining order against him.

(2) Without affecting the generality of subsection (1), an order made under this section may restrain the person named therein from addressing or advising any religious group or religious institution or any member thereof or making any statement or causing any statement to be made, whether orally or in writing, concerning or affecting the relations between that religious group or religious institution and the Government or any other religious group or religious institution.

(3) Any order made under this section shall be for such period, not exceeding 2 years, as may be specified therein.

(4) Before making an order under this section, the Minister shall give the person against whom the order is proposed to be made and the head or governing body or committee of management of the religious group or institution, if any, which is to be named in the proposed order, notice of his intention to make the order together with the grounds and allegations of fact in support thereof and of their right to make written representations to the Minister.

(5) The Minister shall have regard to such representations in making the order.

(6) All written representations under subsection (4) must be made within 14 days of the date of the notice of the Minister's intention to make an order under this section.

Council to be informed of proposed restraining orders

10.—(1) A copy of any notice, grounds and allegations of fact given under section 8(4) or 9(4) shall immediately be given to the Council which may give its views, if any, on the proposed order to the Minister within 14 days of the date of the notice.

(2) The Minister shall have regard to the views of the Council in making the order.

Preview Only

Restraining orders to be referred to Council

11.—(1) Every order made by the Minister under section 8 or 9 must, within 30 days of the date of the order, be referred to the Council.

(2) The Council must consider the order together with the grounds and all facts or documents tendered by the Minister in support of making of the order, and the representations, if any, received by the Minister prior to the making of the order.

(3) Where the Council considers it necessary for its deliberations, the Council may invite a person against whom an order is made to be present for oral examination by the Council at a meeting convened for this purpose.

(4) The Council must, within 30 days of the receipt of the order and the necessary documents, make its recommendations to the President.

(5) The Council may recommend that the order be confirmed, cancelled or varied in any manner.

Restraining orders to be confirmed by President

12.—(1) Every order made under section 8 or 9 shall cease to have effect unless it is confirmed by the President within 30 days from the date the Council's recommendations are received by the President.

(2) The President shall consider the recommendations of the Council and may cancel or confirm the order and in confirming the order may make such variations as he thinks fit.

(3) The President shall, in the exercise of his functions under this section, act on the advice of the Cabinet except where the Constitution provides that he may act in his discretion when the advice of the Cabinet is contrary to the Council's recommendations.

Extension of restraining order

13.—(1) The Minister may, before the expiration of an order made under section 8 or 9, direct that the period of such order be extended for a further period or periods not exceeding 2 years at a time.

(2) Sections 11 and 12 shall apply to any extension of an order in the same manner as they apply to the making of an order under section 8 or 9.

Review of restraining order

14.—(1) Every order made or extended under this Part shall, so long as it remains in force, be reviewed by the Minister at intervals of not more than 12 months and the first of such reviews shall take place not more than 12 months after the date the order was made or extended.

(2) The Minister may at any time revoke an order made under section 8 or 9.

Publication

15. The Minister shall cause an order made under section 8 or 9, any revocation, variation, extension or confirmation thereof or any recommendations of the Council to be published in the *Gazette*.

Penalty for breach of restraining order

16.—(1) Any person who contravenes any provision of an order made under this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a second or subsequent offence, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) Notwithstanding the provisions of any written law to the contrary, a District Court shall have the jurisdiction to impose the maximum penalty prescribed for an offence under this Act.

Consent of Public Prosecutor

17. No court shall try any offence under this Act except with the consent of the Public Prosecutor.

[Act 15 of 2010 wef 02/01/2011]

Decisions under Act not justiciable

18. All orders and decisions of the President and the Minister and recommendations of the Council made under this Act shall be final and shall not be called in question in any court.

Regulations

19. The Minister may make such regulations as appear to him necessary or expedient for the purposes of carrying out the provisions of this Act and may, in particular, provide for —

(*a*) the procedures, conduct and meetings of the Council;

(*b*) the service or publication of any notice, order or the extension, revocation, variation or confirmation thereof, or any recommendation of the Council, or any other document made under this Act; and

(*c*) the procedures for and manner of making representations to the Minister or the Council.

Maintenance of Religious Harmony (Amendment) Bill

Bill No. 25/2019.

Read the first time on 2 September 2019.

President Secretary's Office

A BILL

intituled

An Act to amend the Maintenance of Religious Harmony Act (Chapter 167A of the 2001 Revised Edition), and to make consequential and related amendments to certain other Acts to deal with religious intolerance.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Maintenance of Religious Harmony (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Maintenance of Religious Harmony Act (called in this Act the principal Act) is amended —

(*a*) by inserting, immediately before the definition of "Council", the following definitions:

> ""anonymous donation", for a religious group, means a donation which the religious group accepting the donation is (whether because the donation is offered anonymously or by reason of deception or concealment) unable to ascertain the identity of the donor giving the donation, but excludes the following:
>
> (*a*) a donation deposited in a box, receptacle or other container in a publicly accessible location within a place of worship in Singapore for the same religion or religious denomination as the religious group;
>
> (*b*) any proceeds from a collection by the religious group, the conduct of which is authorised by the House to House and Street Collections Act (Cap. 128);
>
> (*c*) a cash donation collected during an act of collective worship or a religious ceremony or rite conducted by the religious group;

(*d*) a donation which is declared not to be an anonymous donation by regulations made under section 19;

"communications activity", in relation to any information or material, means communicating or distributing the information or material to the general public in Singapore, whether or not in the course of business, and includes doing any of the following whether or not in the course of business:

(*a*) placing the information or material, or something that contains the information or material, somewhere it can be accessed by the general public in Singapore;

(*b*) giving the information or material, or something that contains the information or material, to an intermediary to give to an intended recipient in the general public in Singapore;

(*c*) describing to the general public in Singapore —

(i) how to obtain access to the information or material, or something that contains the information or material; or

(ii) methods that are likely to facilitate access to the information or material, or something that contains the information or material;

(*d*) displaying, screening or playing the information or material, or something

that contains the information or material, so that it can be seen or heard in or from a public place in Singapore,

but does not include communicating or distributing, in the course of business, information or material produced entirely by another person and without altering the information or material or only altering the information or material to the extent to fit time, space or format constraints;

"community remedial initiative" has the meaning given by section 16H;

"competent authority", in relation to any provision of this Act, means the competent authority appointed under section 2B to exercise powers under that provision;

"conduct", in relation to engaging in conduct, means —

(*a*) an act or omission on a single occasion; or

(*b*) a series of acts or omissions, or both, on a number of occasions over a period of time,

such as (but not limited to) communications activity, and may include conduct occurring outside Singapore;";

(*b*) by inserting, immediately after the definition of "Council", the following definitions:

""donation", for a religious group, means any of the following:

(*a*) any bequest or gift of money to the religious group or any religious

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institution affiliated or associated with the religious group;

(*b*) any money to pay or reimburse any expenditure incurred (whether directly or indirectly) by the religious group or any religious institution affiliated or associated with the religious group;

(*c*) any money lent to the religious group or any religious institution affiliated or associated with the religious group, otherwise than on commercial terms;

"donation report" has the meaning given by section 16A;

"donor" means an individual or entity that makes a donation;

"entity" includes any of the following, whether or not a religious group or religious institution:

(*a*) a sole proprietorship;

(*b*) a partnership (including a limited partnership);

(*c*) a limited liability partnership;

(*d*) a corporation within the meaning given by the Companies Act (Cap. 50);

(*e*) a trustee of an express trust or other similar arrangement;

(*f*) an unincorporated association;

(*g*) a co-operative society;

(*h*) a trade union;

"foreign affiliations report" has the meaning given by section 16B;

"foreign country" means a country or territory other than Singapore, and includes part of such a country or territory;

"foreign principal" means —

(*a*) if an individual, an individual who is not a citizen of Singapore and is not a Singapore permanent resident; or

(*b*) if not an individual, an entity which —

(i) is constituted or organised under a law of a foreign country and is not registered in Singapore under any written law;

(ii) has its principal place of business in a foreign country, even if incorporated or registered under any written law; or

(iii) is the government of a foreign country or an authority of the government of a foreign country;

"general public" includes a section of the general public in Singapore;

"gift", for a religious group, includes —

(*a*) a bequest or disposition by will to the religious group or any religious institution affiliated or associated with the religious group;

(*b*) an amount paid by a person as a contribution or entry fee or other

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payment to entitle that or another person to participate or otherwise obtain any benefit from a fund-raising venture or similar function organised by the religious group or any religious institution affiliated or associated with the religious group (being an amount that forms part of the gross proceeds of the venture or function);

(*c*) an annual or other subscription paid to the religious group or any religious institution by a member of that group or institution or an entity for affiliation with that religious group or religious institution; and

(*d*) any other contribution of money given to the religious group or any religious institution affiliated or associated with the religious group, by a person, or in circumstances, prescribed,

but does not include any zakat or fitrah or any other prescribed sum of money (whether or not of a similar kind);

"governing body", for a religious group, means the group of individuals (whether or not each an employee or a responsible officer or religious leader of the religious group) who —

(*a*) is directly involved in the management of the properties (including donations) belonging to the religious group; and

(*b*) has the capacity, on behalf (as the case may be) of the religious group, to influence the appointment of the religious leaders of the religious group or any institutions affiliated or associated with the religious group;

"information or material" means information or material in any form, and includes —

(*a*) oral, written, electronic or digital form; and

(*b*) visual, pictorial or graphic form (such as but not limited to an anthropomorphic or humanlike depiction);

"key management report" has the meaning given by section 16C;";

(*c*) by inserting, immediately after the definition of "publication", the following definitions:

""relevant donor", for a religious group, means a person who makes a religious donation to the religious group and who, at the time the donation is accepted by the religious group —

(*a*) if the donor is an individual, is —

(i) not a citizen of Singapore;

(ii) not a Singapore permanent resident; and

(iii) not a resident of Singapore who is prescribed as a permissible donor; or

(*b*) if the donor is not an individual, is —

(i) not an entity which is registered in Singapore (even if

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incorporated outside Singapore);

(ii) not incorporated under any written law; and

(iii) not a corporation sole or corporation aggregate established under a private Act for religious purposes;

"religious donation", for a religious group, means a donation made to or for the benefit of the religious group, the whole or part of which was used or is intended to be used by the religious group solely or substantially —

(*a*) to incur expenditure for carrying out a religious or charitable purpose of the religious group wholly or partly in Singapore; or

(*b*) to enable the religious group to make, directly or indirectly, a religious donation;

Examples of religious or charitable purpose

(*a*) Religious worship, rite or ceremony carried out wholly or partly in Singapore.

(*b*) The provision of healthcare services wholly or partly in Singapore.

(*c*) The acquisition or maintenance of, or the construction or other building works relating to, a medical clinic or healthcare facility in Singapore.

(*d*) The acquisition or maintenance of, or the construction or other building works relating to, a school or an educational institution in Singapore which is used or to be used wholly or substantially to provide training or courses of instruction about or according to the tenets of the religion or religious denomination of a religious group.

(*e*) The acquisition or maintenance of, or the construction or other building works relating to, a place of worship in Singapore which is used or to be used by members of a religious group.

(*f*) The acquisition or maintenance of, or the construction or other building works relating to, a place of residence for one or more ministers of the religious group whose duties consist of performing the rites or rituals of the faith or in preaching the tenets of the religion or religious denomination, or for missionaries directly engaged in spreading religious doctrine in Singapore and whose work is not in essence administrative or clerical.

(*g*) The acquisition or maintenance of, or the construction or other building works relating to, a place of residence for aged or infirm individuals mentioned above.";

(*d*) by inserting, immediately after the word "includes" in the definition of "religious institution", the words "the congregation, assembly of worshippers, parishioners or other group of followers who attend religious services or activities held in Singapore by or at"; and

(*e*) by deleting the full-stop at the end of the definition of "religious group" and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

""religious leader" means —

(*a*) a priest, monk, pastor, mufti, imam, rabbi, elder or similar office-bearer in a religious group or religious institution; or

(*b*) any other person who is in a position of authority in any religious group or religious institution in relation to the

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religious practice or worship, or the tenets of the religion or religious denomination, of that group or institution,

but a person is not a religious leader by reason only that the person is a responsible officer of the religious group or a member of the governing body of the religious group;

"reportable donation", for a religious group, means —

(*a*) a religious donation given by a relevant donor to and accepted by the religious group, which is of or exceeding $10,000 on any one occasion, without aggregating any earlier donation by the same relevant donor to the same religious group; or

(*b*) an anonymous donation given to and accepted by the religious group, which is of or exceeding $10,000;

"responsible officer", for a religious group, means —

(*a*) where the religious group is a body corporate, the person for the time being holding the office of chairman, managing director or company secretary of, or any position analogous to any of those offices in, the religious group;

(*b*) where the religious group is an unincorporated body of persons, the person for the time being holding the office of president, secretary or treasurer of the governing body or a

committee (or an equivalent body) of, or any position analogous to any of those offices, in the body of persons; or

(*c*) where the religious group is a partnership (including a limited partnership), a partner of the partnership,

and includes any person carrying out the duties of any such office mentioned in paragraph (*a*), (*b*) or (*c*) if that office is vacant;

"restraining order" means an order made under section 8 or 9, as the case may be;

"Singapore permanent resident" means an individual who holds a valid entry permit under section 10 of the Immigration Act (Cap. 133) or a re-entry permit issued under section 11 of that Act.".

New sections 2A and 2B

3. The principal Act is amended by inserting, immediately after section 2, the following sections:

"Supplementary interpretative provisions for donations, etc.

2A.—(1) Subject to the provisions of this Act, a donation is accepted by a religious group if it is received and retained by or on behalf of the religious group for its use and benefit.

(2) For the purposes of this Act, anything given or transferred —

(*a*) to any branch of a religious group (which may be a religious institution); or

(*b*) to any responsible officer of a religious group, member of the governing body of a religious group, or to a religious leader of a religious group, in his

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capacity as such (and not solely for his own use or benefit),

is to be regarded as given or transferred to the religious group, and references to donations received by a religious group accordingly include references to donations so given or transferred.

(3) For the purposes of this Act, any information or material in electronic or digital form which did not originate in Singapore, or the origin of which cannot be determined, is deemed to be communicated or distributed to the general public in Singapore if —

(*a*) the information or material is communicated or distributed or caused to be communicated or distributed by a Singapore-connected person or the Singapore-connected person takes part in that communication or distribution; and

(*b*) the information or material is accessible by persons physically present in Singapore.

(4) For the purposes of subsection (3), a Singapore-connected person means —

(*a*) a citizen of Singapore;

(*b*) a Singapore permanent resident;

(*c*) a person in Singapore;

(*d*) an entity which is registered in Singapore (even if incorporated outside Singapore), or is incorporated under any written law; or

(*e*) a corporation sole or corporation aggregate established under a private Act.

Competent authority

2B.—(1) The Minister may appoint —

(*a*) a public officer to be the competent authority for the administration of Part IV, V or VI generally; or

(*b*) one or more public officers to be each a competent authority responsible for the administration of a particular provision in Part IV, V or VI.

(2) A competent authority is, subject to any general or special directions of the Minister, responsible for the administration of Part IV, V, VI or VII or any provision in that Part (as the case may be) and may perform such duties as are imposed and may exercise such powers as are conferred upon the competent authority by this Act.

(3) The Minister may from time to time give a competent authority directions of a general character, and not inconsistent with the provisions of this Act, as to the exercise of the powers and discretions conferred on the competent authority by, and the duties required to be discharged by the competent authority under, this Act; and the competent authority must give effect to those directions given.".

Amendment of section 4

4. Section 4(1) of the principal Act is amended by deleting the words "on orders referred to the Council by the Minister under section 11" in paragraph (*b*) and substituting the words "to the President on restraining orders and directions to extend given to the Council by the Minister under sections 11 and 13, respectively".

Amendment of section 8

5. Section 8 of the principal Act is amended —

(*a*) by deleting the words "priest, monk, pastor, imam, elder, office-bearer or any other person who is in a position of authority in any religious group or" in subsection (1) and substituting the words "religious leader of any religious group or religious";

(*b*) by deleting the words "has committed or is attempting to commit" in subsection (1) and substituting the words "has committed or is committing, or is likely to commit, or has attempted or is attempting to commit";

(*c*) by inserting, immediately after subsection (1), the following subsection:

"(1A) The Minister may make a restraining order against any religious group for the purposes specified in subsection (2A) if the Minister is of the opinion that it is necessary or expedient so as to pre-empt, prevent or reduce any foreign influence affecting the religious group which may —

(*a*) undermine religious tolerance between different religious groups in Singapore; and

(*b*) present a threat to the public peace and public order in Singapore.";

(*d*) by inserting, immediately after the words "religious group or" in subsection (2)(*a*) and in the section heading, the word "religious";

(*e*) by deleting paragraph (*b*) of subsection (2) and substituting the following paragraph:

"(*b*) requiring the person —

(i) to stop undertaking any communications activity involving the information or material specified or described in the order, immediately or within the period specified in the order, and absolutely or except with the prior permission of the Minister; or

(ii) to stop printing or editing, or assisting or contributing to, any publication produced by any religious group or religious institution without the prior permission of the Minister;";

(*f*) by inserting, immediately after subsection (2), the following subsections:

"(2A) A restraining order made under subsection (1A) may be made against a religious group named in the order requiring the religious group —

(*a*) to not accept any anonymous donation on or after a date specified in the restraining order;

(*b*) to not accept any religious donation on or after a date specified in the restraining order from a foreign principal specified in the order;

(*c*) to return any religious donation received, on or after a date specified in the restraining order, from a foreign principal specified in the order;

(*d*) to dispose of any anonymous donation received, on or after a date specified in the restraining order;

(*e*) to ensure that on or after a date specified in the restraining order, every member of the governing body of the religious group is a citizen of Singapore; or

(*f*) to remove a member of the governing body of the religious group specified in the restraining order, being an individual who is not a citizen of Singapore.

(2B) A restraining order under subsection (1A) of the effect in subsection (2A)(*b*) or (*c*) may specify the manner in which, and must specify the period within which, the religious donations concerned must be sent back to the person who made the donation or any other person appearing to be acting on the donor's behalf.

(2C) A restraining order under subsection (1A) of the effect in subsection (2A)(*d*) may require —

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(*a*) if the donation was transmitted by a person (other than the donor) and the identity of that person is apparent, that the whole donation must be returned to that person;

(*b*) if paragraph (*a*) does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, that the whole donation must be returned to that financial institution; or

(*c*) in all other cases, that the whole donation must be sent to a competent authority; and all anonymous donations so sent must be paid into the Consolidated Fund.

(2D) A restraining order under subsection (1A) of the effect in subsection (2A)(*f*) may also require the religious group concerned to suspend (for no longer than 24 continuous months) a member of the governing body of the religious group who is not a citizen of Singapore from the exercise of his office as a member of the governing body pending consideration being given to his removal under a restraining order under subsection (1A).";

(*g*) by deleting the words "Any order made under this section shall be" in subsection (3) and substituting the words "Subject to section 12(2), a restraining order made under this section has effect"; and

(*h*) by deleting subsections (4), (5) and (6) and substituting the following subsections:

"(4) Before making a restraining order, the Minister is not required to give any person notice of, or consult any person on, the Minister's intention to make that order.

(5) After making a restraining order, the Minister must immediately give, or cause to be given, a copy of

the order, and the grounds, facts and documents supporting the order, to the following:

(*a*) for a restraining order under subsection (1) —

(i) the religious leader of a religious group or religious institution or a member thereof against whom the order is made; and

(ii) the head or governing body of that religious group or religious institution;

(*b*) for a restraining order under subsection (1A) —

(i) the religious group against whom the order is made; and

(ii) the head or governing body of that religious group.

(6) A restraining order takes effect on the date a copy of it is given to the religious leader of a religious group or religious institution or a member thereof mentioned in subsection (5)(*a*)(i), and the religious group mentioned in subsection (5)(*b*)(i), respectively; and that religious leader or member of the religious group or religious institution or that religious group (as the case may be) must comply with the order.

(7) A reference in subsection (2)(*b*) and section 9(2) to stop undertaking any communications activity involving the information or material includes a reference to taking all reasonably practicable steps to ensure that the information or material is no longer available on or through the Internet to end users in Singapore, such as (if necessary) the removal of the information or material from an online location.".

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Amendment of section 9

6. Section 9 of the principal Act is amended —

(*a*) by deleting the words "has committed or is attempting to commit" in subsection (1)(*b*) and substituting the words "has committed or is committing, or is likely to commit, or has attempted or is attempting to commit";

(*b*) by deleting the word "he" in subsection (1) and substituting the words "the Minister";

(*c*) by deleting the words "or making any statement or causing any statement to be made, whether orally or in writing," in subsection (2) and substituting the words ", or requiring the person named in the order to stop undertaking any communications activity involving information or material,";

(*d*) by deleting the words "Any order made under this section shall be" in subsection (3) and substituting the words "Subject to section 12(2), a restraining order made under this section has effect"; and

(*e*) by deleting subsections (4), (5) and (6) and substituting the following subsections:

"(4) Before making an order under subsection (1), the Minister is not required to give any person notice of, or consult any person on, the Minister's intention to make that order.

(5) After making an order under subsection (1) against a person, the Minister must immediately give, or cause to be given, a copy of the order, and the grounds, facts and documents supporting the order, to —

(*a*) that person; and

(*b*) the head or governing body of the religious group or religious institution named in the order.

(6) The order made under subsection (1) against a person takes effect on the date it is given to the person, who must comply with the order.".

Repeal and re-enactment of section 10

7. Section 10 of the principal Act is repealed and the following section substituted therefor:

"**Relation to other laws**

10. Except as provided in section 16F, nothing in this Act or any restraining order, direction or community remedial initiative derogates from the effect of any other written law for the time being in force.".

Amendment of section 11

8. Section 11 of the principal Act is amended —

(*a*) by deleting subsection (1) and substituting the following subsections:

"(1) After making a restraining order, the Minister must immediately give, or cause to be given, to the Council —

(*a*) a copy of the restraining order; and

(*b*) the grounds, facts and documents supporting the restraining order.

(1A) The following persons may, in accordance with subsection (1B), make representations to the Council against a restraining order:

(*a*) the person against whom the restraining order is made;

(*b*) the head or governing body of the religious group or religious institution named in the restraining order.

(1B) Any representation under subsection (1A) against a restraining order must be in writing and must be made within 14 days after the restraining

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order is given to the person against whom the restraining order is made.";

(*b*) by deleting the words "by the Minister prior to the making of the order" in subsection (2) and substituting the words "by the Council under subsection (1A)";

(*c*) by inserting, immediately after subsection (3), the following subsection:

"(3A) The Council may, if it considers it necessary for its deliberations under this section, invite any other person to attend before the Council and be examined on the matter."; and

(*d*) by deleting the words "of the receipt of the order and the necessary documents" in subsection (4) and substituting the words "after the end of the period mentioned in subsection (1B)".

Amendment of section 12

9. Section 12(1) of the principal Act is amended by deleting the words "order made under section 8 or 9" and substituting the words "restraining order".

Amendment of section 13

10. Section 13 of the principal Act is amended —

(*a*) by deleting the words "an order made under section 8 or 9" in subsection (1) and substituting the words "a restraining order as confirmed or as varied"; and

(*b*) by deleting subsection (2) and substituting the following subsections:

"(2) Subject to subsection (3), sections 11 and 12 apply to any direction under this section to extend as if a reference in those sections to a restraining order includes a reference to a direction to extend.

(3) The Council may recommend that a direction to extend be confirmed or cancelled only.".

Amendment of section 14

11. Section 14(2) of the principal Act is amended by deleting the words "an order made under section 8 or 9" and substituting the words "a restraining order, including an order as confirmed, varied or extended under this Part".

Amendment of section 16

12. Section 16 of the principal Act is amended —

(*a*) by deleting the words "an order made under this Part" in subsection (1) and substituting the words "a restraining order (including one as confirmed, varied or extended)"; and

(*b*) by deleting subsection (2).

New Parts IV and V and new Part VI heading

13. The principal Act is amended by inserting, immediately after section 16, the following Parts and Part heading:

"PART IV

COUNTERING FOREIGN INFLUENCE: GENERAL

Reporting of reportable donations

16A.—(1) Subject to this Act, every reportable donation accepted by any religious group during each reporting period must be disclosed to a competent authority in accordance with this section.

(2) Disclosure to a competent authority of reportable donations received during a reporting period and accepted by a religious group must be in a donation report relating to the reporting period that —

(*a*) is in the form required by the competent authority;

(*b*) is given to the competent authority within the time delimited by subsection (3) and in the manner prescribed in regulations made under section 19 or, subject to those regulations, as approved by the competent authority;

(*c*) contains the prescribed details of every reportable donation accepted by the religious group during the reporting period, and the prescribed particulars of each donor;

(*d*) is signed by every responsible officer of the religious group; and

(*e*) is accompanied by a declaration in subsection (4) made by every responsible officer of the religious group.

(3) Subject to subsection (5), disclosure of reportable donations accepted by a religious group during a reporting period must be given to a competent authority no later than 1 April of the year following the year in which the reportable donation was accepted.

(4) The declaration required by subsection (2)(*e*) to accompany a donation report of a religious group must contain a statement that, to the knowledge and belief of every responsible officer of the religious group —

(*a*) no other reportable donation has been accepted by the religious group during the reporting period to which the donation report relates; and

(*b*) if the religious group is one to whom a restraining order under section 8(1A) is given, no religious donation which is prohibited by that order has been accepted by the religious group during the reporting period to which the donation report relates.

(5) Regulations made under section 19 may prescribe a longer period for the purposes of subsection (3).

(6) In this section —

"appointed day" means the date of commencement of section 13 of the Maintenance of Religious Harmony (Amendment) Act 2019;

"initial reporting period" means —

(*a*) the period starting on the appointed day and ending on 31 December of the same year that appointed day falls, unless paragraph (*b*) applies; or

(*b*) the period starting on the day the religious group is incorporated or formed (being after the appointed day), and ending on 31 December of the same year the day the religious group is incorporated or formed falls;

"reporting period" means the period of 12 months starting 1 January and ending 31 December in any year, and includes an initial reporting period.

Disclosure of foreign affiliations

16B.—(1) Subject to this Act, every arrangement or agreement to which a religious group is party during a reporting period, being an arrangement or agreement —

(*a*) which is with a foreign principal; and

(*b*) under which —

(i) the religious group is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the foreign principal or, where the foreign principal is an entity, of the governing body of the foreign principal; or

(ii) the foreign principal is in a position to exercise, in any other way, total or substantial control over the religious group's activities in Singapore,

must be disclosed to a competent authority in accordance with this section.

(2) Disclosure to a competent authority of every arrangement or agreement described in subsection (1) to which a religious

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group is party during a reporting period must be in a foreign affiliations report relating to the reporting period that —

(*a*) is in the form required by the competent authority;

(*b*) is given to the competent authority within the time delimited by subsection (3) and in the manner prescribed in regulations made under section 19 or, subject to those regulations, as approved by the competent authority;

(*c*) contains the prescribed details or description of every such arrangement or agreement with a foreign principal during the reporting period, and the identity and other prescribed particulars of the foreign principal;

(*d*) is signed by every responsible officer of the religious group; and

(*e*) is accompanied by a declaration in subsection (4) made by every responsible officer of the religious group.

(3) Subject to subsection (5), disclosure of every arrangement or agreement described in subsection (1) to which a religious group is party during a reporting period must be given to a competent authority no later than 1 April of the year following the year in which the reporting period ends.

(4) The declaration required by subsection (2)(*e*) to accompany a foreign affiliations report of a religious group must contain a statement that, to the knowledge and belief of every responsible officer of the religious group, there is no other arrangement or agreement described in subsection (1) to which the religious group is party during the reporting period to which the foreign affiliations report relates.

(5) Regulations made under section 19 may prescribe a longer period for the purposes of subsection (3).

(6) In this section —

"appointed day" means the date of commencement of section 13 of the Maintenance of Religious Harmony (Amendment) Act 2019;

"arrangement" includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

"initial reporting period" means —

(*a*) the period starting on the appointed day and ending on 31 December of the same year that appointed day falls, unless paragraph (*b*) applies; or

(*b*) the period starting on the day the religious group is incorporated or formed (being after the appointed day), and ending on 31 December of the same year the day the religious group is incorporated or formed falls;

"reporting period" means the period of 12 months starting 1 January and ending 31 December in any year, and includes an initial reporting period.

Disclosure of governing body composition

16C.—(1) Subject to this Act, the particulars of —

(*a*) every individual who —

(i) is a member of the governing body of any religious group on the appointed day; or

(ii) is or becomes (whether by appointment or election or otherwise) a member of the governing body of any religious group at any subsequent time;

(*b*) every individual who, for any reason, stops acting as a member of the governing body of a religious group;

(*c*) the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group as in effect on the appointed day; and

(*d*) every change (after the appointed day) to the constitution, memorandum or articles of association, trust deed or equivalent instrument mentioned in paragraph (*c*), being a change affecting (directly or indirectly) the size or composition of its governing body,

must be disclosed to a competent authority in accordance with this section.

(2) Disclosure to a competent authority of every individual or matter described in subsection (1) must be in a key management report relating to the religious group that —

(*a*) is in the form required by the competent authority;

(*b*) is given to the competent authority within the time delimited by subsection (3) and in the manner prescribed in regulations made under section 19 or, subject to those regulations, as approved by the competent authority;

(*c*) contains —

(i) the prescribed details of the identity, nationality and other particulars of every such individual who is or becomes a member of the governing body of the religious group;

(ii) the identity and nationality of every responsible officer of the religious group; and

(iii) the prescribed details and description of any change (on or after the appointed day) to the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group affecting the size or composition (or both) of its governing body; and

(*d*) is signed by every responsible officer of the religious group.

(3) Subject to subsection (4), disclosure of every individual or matter described in subsection (1) must be given to a competent authority —

(*a*) in relation to the circumstance in subsection (1)(*a*)(i) or (*c*), not later than 60 days after the appointed day, or such extended period as the competent authority may allow in any particular case; and

(*b*) in relation to the circumstance in subsection (1)(*a*)(ii), (*b*) or (*d*), no later than 30 days after —

(i) the individual is or becomes, or stops acting (as the case may be) as, a member of the governing body of the religious group; or

(ii) the change to the constitution, memorandum or articles of association, trust deed or equivalent instrument mentioned in subsection (1)(*c*) takes effect.

(4) Regulations made under section 19 may prescribe a longer period for the purposes of subsection (3)(*a*) or (*b*).

(5) In this section —

"appointed day" means the date of commencement of section 13 of the Maintenance of Religious Harmony (Amendment) Act 2019;

"appointment" includes re-appointment.

Restrictions on responsible officers' nationality

16D.—(1) This section applies to and in relation to every religious group only from a date declared by the Minister by order in the *Gazette*.

(2) Subject to this Act, a religious group in Singapore —

(*a*) must not appoint or re-appoint as a responsible officer of the religious group, an individual who is not a

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citizen of Singapore and not a Singapore permanent resident; and

(*b*) must not permit an individual who is not a citizen of Singapore and not a Singapore permanent resident to act as a responsible officer of the religious group,

except in accordance with the approval of the Minister granted after taking into account the circumstances for the religious observance or practices of the religious group and its community bonding among the people of Singapore.

(3) Where a competent authority is satisfied that a religious group in Singapore has, in contravention of subsection (2) —

(*a*) appointed or re-appointed as a responsible officer of the religious group, an individual who is not a citizen of Singapore and not a Singapore permanent resident; or

(*b*) permitted an individual who is not a citizen of Singapore and not a Singapore permanent resident to act as a responsible officer of the religious group,

the competent authority may, by written notice to the religious group, direct the religious group to remove the responsible officer from his office or employment within the period specified in the notice, and the religious group must comply with that direction.

(4) A competent authority is not required to give any person notice of, or consult any person on, the competent authority's intention to direct under subsection (3) a religious group to remove an individual from his office or employment.

(5) If a religious group which is directed, or the individual required to be removed in a direction, under subsection (3) is aggrieved by the direction, the religious group or the individual (as the case may be) may, within 14 days after the notice under subsection (3) of the direction is given to the religious group or individual (as the case may be), appeal against the direction to the Minister.

(6) Unless otherwise ordered by the Minister, the direction of the competent authority appealed against must be complied with until the determination of the appeal.

(7) The Minister's decision on an appeal is final.

(8) Subject to this Act, in the event that for any reason (such as by resignation, death or otherwise), a responsible officer of a religious group ceases to be either a citizen of Singapore or a Singapore permanent resident, the religious group must give written notice of that event to the competent authority, within 30 days after the religious group first becomes aware of that event.

(9) An order under subsection (1) cannot be revoked by another such order.

Nationality of religious group governing body

16E.—(1) This section applies to and in relation to every religious group only from a date declared by the Minister by order in the *Gazette*.

(2) Subject to this Act, a religious group in Singapore must ensure that more than half of the total number of seats in its governing body are occupied or held by individuals who are citizens of Singapore unless the religious group is expressly allowed by the Minister to do otherwise after taking into account the circumstances for the religious observance or practices of the religious group and its community bonding among the people of Singapore.

(3) Where a competent authority is satisfied that a religious group in Singapore has, in contravention of subsection (2), permitted half or more than half of the total number of seats in its governing body to be occupied or held by individuals who are not citizens of Singapore —

(*a*) the competent authority may, by written notice to the religious group, direct the religious group to remove such number of members of the governing body who

are not citizens of Singapore from their office within the period specified in the notice; and

(*b*) the religious group must comply with that direction.

(4) A competent authority is not required to give any person notice of, or consult any person on, the competent authority's intention to direct under subsection (3) a religious group to remove an individual from his office.

(5) If a religious group directed, or the individual required to be removed in a direction, under this section is aggrieved by the direction, the religious group or the individual (as the case may be) may, within 14 days after the notice under subsection (3) of the direction is given to the religious group or individual (as the case may be), appeal against the direction to the Minister.

(6) Unless otherwise ordered by the Minister, the direction of the competent authority appealed against must be complied with until the determination of the appeal.

(7) The Minister's decision on an appeal is final.

(8) Subject to this Act, in the event that for any reason (such as by resignation, death or otherwise), half or more than half of the total number of seats in the governing body of a religious group is occupied or held by individuals who are not citizens of Singapore, the religious group must give written notice of the event to the competent authority, within 30 days after the religious group first becomes aware of that event.

(9) An order under subsection (1) cannot be revoked by another such order.

PART V

SUPPLEMENTARY PROVISIONS

Overriding memorandum and articles of association, etc.

16F.—(1) A restraining order under section 8(1A) has effect despite the provisions of —

(*a*) any other written law in force; and

(*b*) the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group.

(2) A requirement or notice under section 16D(2) or (3) or 16E(2) or (3) has effect despite the provisions of —

(*a*) any other written law in force on the date declared under sections 16D(1) and 16E(1), respectively; and

(*b*) the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group.

(3) No criminal or civil liability shall be incurred by a religious group in Singapore, or any person acting on behalf of the religious group, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the religious group under a restraining order or a requirement or notice under section 16D(2) or (3) or 16E(2) or (3).

Power to obtain information

16G.—(1) A competent authority may by written notice require any religious group to provide, within a reasonable period specified in the notice, and in such form and manner as may be specified in the notice, all documents or all information or material (or both) which —

(*a*) relate to any matter which the competent authority considers necessary for any of the following purposes:

(i) to determine whether any information or material provided to a competent authority under a provision of this Act or its subsidiary legislation is correct;

(ii) to determine whether there are grounds for any direction or restraining order to be given under this Act against a religious group; and

(*b*) are —

(i) within the knowledge of that religious group; or

(ii) in the custody or under the control of the religious group.

(2) The power to require a religious group to provide any document or any information or material under subsection (1) includes the power —

(*a*) to require that religious group, or any individual who is or was a responsible officer or agent or a member of the governing body of that religious group (as the case may be), to provide an explanation of the document or the information or material;

(*b*) if the document or the information or material is not provided, to require that religious group or individual to state, to the best of the knowledge and belief of that religious group or individual (as the case may be), where it is; and

(*c*) if the information or material is recorded otherwise than in legible form, to require the information or material to be made available to the competent authority in legible form.

(3) A competent authority is entitled without payment to keep any document or any information or material, or any copy or extract thereof, provided to the competent authority under subsection (1).

Community remedial initiative

16H.—(1) Subject to this section, the Minister may offer under this section to a person (called in this section an alleged offender) an opportunity to take one or more remedial actions, participate in one or more activities, or do any other thing, to promote religious harmony in Singapore (called in this section a community remedial initiative) if, in the opinion of the Minister, the alleged offender is attempting to engage in conduct, is

engaging or has engaged in conduct, or is likely to engage in conduct —

(*a*) that causes, or the alleged offender knows is likely to incite, feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a person or a group in Singapore, being a person or group distinguished by religion or religious belief or activity within the meaning of section 17E(6); or

(*b*) on the ground of religion or religious belief or activity and that the alleged offender knows is likely to insult the religion or religious belief or activity (within the meaning of section 17F(5)), or wounds the religious feelings, of another person in Singapore.

(2) However, no offer under this section may be made with respect to any engaging in conduct or attempt to engage in conduct occurring before the date of commencement of section 13 of the Maintenance of Religious Harmony (Amendment) Act 2019.

(3) A person may choose whether to enter into a community remedial initiative with the Minister.

(4) One community remedial initiative may be entered into for 2 or more different conduct or attempts to engage in conduct mentioned in subsection (1) which constitute an offence under this Act or any other written law (called in this section an alleged offence).

(5) In addition to subsection (4), a community remedial initiative in respect of an alleged offence —

(*a*) may be entered into before, on or after the date on which an alleged offender is charged with the alleged offence; but

(*b*) cannot be entered into after the commencement of the trial for that alleged offence.

(6) While a community remedial initiative in respect of an alleged offence is in force —

(*a*) if the alleged offender has been charged with the alleged offence, the alleged offender is deemed to have been granted a discharge not amounting to an acquittal in relation to that alleged offence, when the community remedial initiative comes into force; and

(*b*) the alleged offender cannot be prosecuted for that alleged offence under this Act or any other written law in any criminal proceedings.

(7) If the Minister believes that an alleged offender who entered into a community remedial initiative for an alleged offence has failed to comply with the terms of that agreement, the Minister may terminate the community remedial initiative and refer the alleged offence to the Public Prosecutor.

PART VI

OFFENCES

Division 1 — General".

New sections 17A to 17L and new Part VII heading

14. The principal Act is amended by inserting, immediately after section 17, the following sections and Part heading:

"**Offences by corporations**

17A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(*a*) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

(*b*) the officer, employee or agent had that state of mind,

is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(*a*) who is —

(i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(*b*) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(*a*) Chapters V and VA of the Penal Code (Cap. 224); or

(*b*) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and

applies whether or not the corporation is convicted of the offence.

(6) In this section —

"corporation" includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

"officer", in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(*a*) any person purporting to act in any such capacity; or

(*b*) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

"reasonable steps", in relation to the commission of an offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances:

(*a*) action towards —

(i) assessing the corporation's compliance with the provision creating the offence; and

(ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision;

(*b*) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the offence so far as the provision is relevant to them;

(*c*) action towards ensuring that —

(i) the equipment and other resources; and

(ii) the structures, work systems and other processes,

relevant to compliance with the provision creating the offence are appropriate in all the circumstances;

(*d*) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the offence;

"state of mind" of a person includes —

(*a*) the knowledge, intention, opinion, belief or purpose of the person; and

(*b*) the person's reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

17B.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

(*a*) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his actual or apparent authority; and

(*b*) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

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(*a*) who is —

(i) an officer of the unincorporated association or a member of its governing body;

(ii) a partner in the partnership; or

(iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(*b*) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

(*a*) Chapters V and VA of the Penal Code; or

(*b*) the Evidence Act or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

"officer", in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(*a*) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(*b*) any person purporting to act in any such capacity;

"partner" includes a person purporting to act as a partner;

"reasonable steps" has the meaning given by section 17A(6);

"state of mind" of a person includes —

(*a*) the knowledge, intention, opinion, belief or purpose of the person; and

(*b*) the person's reasons for the intention, opinion, belief or purpose.

Jurisdiction of court

17C.—(1) Despite the Criminal Procedure Code (Cap. 68), a District Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for any such offence.

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(2) Where an offence under section 17E or 17F is committed by a person outside Singapore, the person may be dealt with in respect of that offence as if it had been committed in Singapore.

Composition of offences

17D.—(1) A competent authority may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

(*a*) one half of the amount of the maximum fine that is prescribed for the offence;

(*b*) $5,000.

(2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence.

(3) All sums collected under this section must be paid into the Consolidated Fund.

Division 2 — Serious offences

Offence of urging violence on religious grounds or against religious group, etc.

17E.—(1) A person commits an offence if —

(*a*) the person, on the ground of religion or religious belief or activity, knowingly engages in conduct urging another person, or a group of persons, to use force or violence against a person in Singapore (called in this subsection the target person);

(*b*) the person does so knowing that force or violence is likely to occur;

(*c*) the person does so because of the person's belief that the target person is a member of a group (called in this subsection a target group); and

(*d*) the target group is distinguished by religion or religious belief or activity, ethnicity, descent,

nationality, language, political opinion or by any other characteristic, whether or not of a similar kind.

(2) A person commits an offence if —

(*a*) the person, on the ground of religion or religious belief or activity, knowingly engages in conduct urging another person, or a group of persons, to use force or violence against a group in Singapore (called in this subsection the target group);

(*b*) the person does so knowing that force or violence is likely to occur; and

(*c*) the target group is distinguished by religion or religious belief or activity, ethnicity, descent, nationality, language, political opinion or by any other characteristic, whether or not of a similar kind.

(3) A person commits an offence if —

(*a*) the person knowingly engages in conduct urging another person, or a group of persons, to use force or violence against a person in Singapore (called in this subsection the target person);

(*b*) the person does so knowing that force or violence is likely to occur;

(*c*) the person does so because of the person's belief that the target person is a member of a group (called in this subsection a target group); and

(*d*) the target group is distinguished by religion or religious belief or activity.

(4) A person commits an offence if —

(*a*) the person knowingly engages in conduct urging another person, or a group of persons, to use force or violence against a group in Singapore (called in this subsection the target group);

(*b*) the person does so knowing that force or violence is likely to occur; and

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(*c*) the target group is distinguished by religion or religious belief or activity.

(5) For the purposes of subsection (1)(*c*) or (3)(*c*), it does not matter whether the target person in that subsection actually is a member of a target group.

(6) In subsection (1), (2), (3) or (4), "religious belief or activity" means —

(*a*) holding a religious belief or view; or

(*b*) engaging in religious activity.

(7) A person who is guilty of an offence under subsection (1), (2), (3) or (4) shall be liable on conviction to imprisonment for a term not exceeding 10 years or to a fine, or to both.

Offence of inciting hatred, ill-will, etc.

17F.—(1) A person commits an offence if —

(*a*) the person knowingly engages in conduct that incites feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a group in Singapore (called in this subsection a target group);

(*b*) the target group is distinguished by religion or religious belief or activity;

(*c*) the person does so knowing that feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, the target group is likely to occur; and

(*d*) the person is a religious leader when the person engages in the conduct.

(2) A person commits an offence if —

(*a*) the person knowingly engages in conduct that —

(i) insults the religion or religious belief or activity of another person in Singapore (called in this subsection a target person); or

(ii) wounds the religious feelings of a person in Singapore (called in this subsection a target person) who holds a religious belief or view;

(*b*) the target person is distinguished by religion or religious belief or activity;

(*c*) the person does so knowing that the religion or religious belief or activity of the target person is likely to be insulted or the religious feelings of the target person are likely to be wounded; and

(*d*) the person is a religious leader when the person engages in the conduct.

(3) A person commits an offence if —

(*a*) the person knowingly engages in conduct that incites feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a group in Singapore (called in this subsection a target group);

(*b*) the target group is distinguished by religion or religious belief or activity;

(*c*) the person does so knowing that feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, the target group is likely to occur; and

(*d*) the feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, the target group would threaten the public peace or public order in Singapore or any part of Singapore.

(4) A person commits an offence if —

(*a*) the person knowingly engages in conduct that —

(i) insults the religion or religious belief or activity of another person in Singapore (called in this subsection a target person); or

(ii) wounds the religious feelings of a person in Singapore (called in this subsection a target person) who holds a religious belief or view;

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(*b*) the target person is distinguished by religion or religious belief or activity;

(*c*) the person does so knowing that the religion or religious belief or activity of the target person is likely to be insulted or the religious feelings of the target person are likely to be wounded; and

(*d*) the insult or wounding mentioned in paragraph (*c*) (as the case may be) would threaten the public peace or public order in Singapore or any part of Singapore.

(5) In subsection (1)(*b*), (2), (3)(*b*), (4) or (10)(*b*), "religious belief or activity" means —

(*a*) holding a religious belief or view; or

(*b*) engaging in religious activity.

(6) A person who is guilty of an offence under subsection (1), (2), (3) or (4) shall be liable on conviction to imprisonment for a term not exceeding 5 years or to a fine, or to both.

(7) In any proceedings for an offence under subsection (1) or (2), it is a defence for the accused to prove, on a balance of probabilities, that the conduct the accused engaged in —

(*a*) was a domestic communication; and

(*b*) was in circumstances that may reasonably be taken to indicate that the parties to the communication desire it to be heard or seen only by themselves.

(8) In any proceedings for an offence under subsection (3) or (4), it is a defence for the accused to prove, on a balance of probabilities, that the accused engaged in the conduct in circumstances that may reasonably be taken to indicate that the parties to the conduct desire it to be heard or seen only by themselves.

(9) However, subsections (7) and (8) do not apply in relation to conduct in any circumstances in which the parties to the conduct ought reasonably to expect that it may be heard or seen by someone else.

(10) In any proceedings for an offence under subsection (1), (2), (3) or (4), it is also a defence for the accused to prove, on a balance of probabilities, that the accused was pointing out in good faith any matters that —

(*a*) are producing or have a tendency to produce feelings of enmity, hatred, ill-will or hostility between different religious groups; or

(*b*) are insulting the religion or religious belief or activity or wounding the religious feelings of a person or persons distinguished by religion or religious belief or activity,

in order to bring about a removal of those matters.

Interpretative provisions for serious offences

17G.—(1) In determining whether a person commits an offence under section 17E or 17F, the person's motive for engaging in the conduct is irrelevant.

(2) In determining whether a person has committed an offence under section 17E, the following are irrelevant:

(*a*) whether or not the religion or religious belief or activity (as defined in section 17E), or the ethnicity, descent, nationality, language, political opinion or any other characteristic (whether or not of a similar kind) of another person or group of persons is the only or dominant ground for the conduct, so long as it is a substantial ground;

(*b*) whether or not the person made an assumption about the religion or religious belief or activity (as defined in section 17E), or the ethnicity, descent, nationality, language, political opinion or any other characteristic (whether or not of a similar kind), of another person or group of persons that was incorrect at the time that the offence is alleged to have taken place.

(3) In determining whether a person has committed an offence under section 17F, the following are irrelevant:

(*a*) whether or not the religion or religious belief or activity (as defined in section 17F) of another person or group of persons is the only or dominant ground for the conduct, so long as it is a substantial ground;

(*b*) whether or not the person made an assumption about the religion or religious belief or activity (as defined in section 17F) of another person or group of persons that was incorrect at the time that the offence is alleged to have taken place.

Division 3 — Other offences

Offences relating to reports

17H.—(1) Where —

(*a*) any donation report, foreign affiliations report or key management report which is required under Part IV in respect of a religious group; or

(*b*) any declaration relating to any report mentioned in paragraph (*a*), which is required under Part IV in respect of a religious group,

is not given to a competent authority in accordance with the requirements of that Part, every responsible officer of the religious group shall be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part of a day during which the offence continues after conviction.

(2) Where a responsible officer of a religious group, with an intent to deceive, makes —

(*a*) in a donation report, foreign affiliations report or key management report which is required to be given under Part IV in respect of the religious group —

(i) a statement that is false or misleading in a material particular; or

(ii) an omission of any matter or thing without which such a report is misleading in a material particular; or

(*b*) a false declaration required to be given under Part IV in respect of a donation report, foreign affiliations report or key management report of the religious group,

the responsible officer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $20,000.

(3) Where in a donation report, foreign affiliations report or key management report, or a declaration relating to such a report, which is required to be given under Part IV in respect of a religious group, there is —

(*a*) a statement that is false or misleading in a material particular; or

(*b*) an omission of any matter or thing without which the donation report or declaration is misleading in a material particular,

and the report or declaration is given to a competent authority, every responsible officer of the religious group shall be guilty of an offence and shall each be liable on conviction to a fine not exceeding $5,000.

(4) In proceedings for an offence under subsection (1) in relation to a donation report, foreign affiliations report or key management report, or a declaration relating to any such report, it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused took all reasonable steps, and exercised all due diligence, to ensure that a requirement in Part IV has been complied with in relation to the report or declaration.

(5) In proceedings for an offence under subsection (3) in relation to a donation report, foreign affiliations report or key management report, or a declaration relating to any such report,

which is required under Part IV, it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused took all reasonable steps, and exercised all due diligence, to ensure that —

(*a*) a statement in the report or declaration (as the case may be) was not false or misleading in a material particular; or

(*b*) the report or declaration did not contain any omission which would have made the report or declaration misleading in a material particular.

(6) An offence under subsection (1) or (3) is a strict liability offence.

Offences relating to reportable donations

17I.—(1) A person commits an offence if the person —

(*a*) with intent to deceive, withholds from a religious group any material information relating to the identity of a donor of a religious donation or the amount of a religious donation to the religious group; or

(*b*) intentionally or knowingly gives, in relation to the identity of a donor of a religious donation or the amount of a religious donation to a religious group, any information to the religious group which is false or misleading in a material particular.

(2) A person commits an offence if the person —

(*a*) enters into; or

(*b*) knowingly does any act in furtherance of,

any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of a donation to a religious group by a person prohibited by a restraining order under section 8(1A).

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding

$10,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $20,000.

Offence relating to nationality of governing body members, etc.

17J.—(1) A religious group commits an offence if —

(*a*) by the end of the period specified in section 16D(8), the religious group fails to give the notice required under section 16D(8); and

(*b*) the religious group permits an individual who is not a citizen of Singapore and not a Singapore permanent resident to act as a responsible officer of the religious group in contravention of section 16D(2).

(2) A religious group commits an offence if —

(*a*) by the end of the period specified in section 16E(8), the religious group fails to give the notice required under section 16E(8); and

(*b*) the religious group permits half or more than half of the total number of seats in its governing body to be occupied or held by individuals who are not citizens of Singapore in contravention of section 16E(2).

(3) A religious group who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding $5,000 and, in the case of a continuing offence, to a further fine not exceeding $500 for every day or part of a day during which the offence continues after conviction.

(4) In proceedings for an offence under subsection (1) or (2) in relation to a requirement to give a notice under section 16D(8) or 16E(8), it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused took all reasonable steps, and exercised all due diligence, to ensure that the requirement has been complied with.

(5) An offence under subsection (1) or (2) is a strict liability offence.

Offence of giving false information

17K.—(1) A person commits an offence if —

(*a*) the person gives information or material or produces a document to a competent authority;

(*b*) the person does so in response to a notice given to the person under section 16G;

(*c*) either —

(i) the information or material or the document is false or misleading in a material particular; or

(ii) the information or material omits any matter or thing without which the information or material is misleading in a material particular; and

(*d*) the person knew that —

(i) the information or document is false or misleading in a material particular; or

(ii) the information omits any matter or thing without which the information is misleading in a material particular.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding $10,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $20,000.

(3) A person commits an offence if —

(*a*) the person gives information or material or produces a document to a competent authority;

(*b*) the person does so in response to a notice given to the person under section 16G; and

(*c*) either —

(i) the information or material or the document is false or misleading in a material particular; or

(ii) the information or material omits any matter or thing without which the information or material is misleading in a material particular.

(4) A person who is guilty of an offence under subsection (3) shall be liable on conviction to a fine not exceeding $5,000.

(5) In proceedings for an offence under subsection (3) in relation to any information or material which is required by a notice under section 16G to be given, it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused took all reasonable steps, and exercised all due diligence, to ensure that —

(*a*) the information or material was not false or misleading in a material particular; or

(*b*) the information or material did not contain any omission which would have made the report or declaration misleading in a material particular.

(6) The offence under subsection (3) is a strict liability offence.

Offence of not giving information

17L.—(1) Subject to subsection (3), a person commits an offence if —

(*a*) the person is required by a notice given to the person under section 16G to provide a document or information or material to a competent authority; and

(*b*) the person —

(i) fails to provide the document or the information or material to the competent authority; or

(ii) alters, suppresses or destroys any document or any information or material which the person has been required by the notice to provide.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding $5,000 and, in the case of a continuing offence, to a further fine not

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exceeding $500 for every day or part of a day during which the offence continues after conviction.

(3) In any proceedings for an offence under subsection (1), it is a defence for the accused to prove, on a balance of probabilities, that —

(*a*) the person does not possess the document or the information or material required; or

(*b*) the person has taken all reasonable steps available to the person to obtain the document or the information or material required and has been unable to obtain it.

(4) The offence under subsection (1) is a strict liability offence.

(5) To avoid doubt, for the purposes of subsection (1), it is not a defence for a person to refuse or fail to provide any document or any information or material if doing so might tend to incriminate that person.

(6) Where a person claims, before producing any document or giving any information or material that the person is required by section 16G to produce or give, that the production of the document or the giving of the information or material might tend to incriminate him —

(*a*) that document or information or material;

(*b*) the production of that document or the provision of that information or material; or

(*c*) any information, document or thing obtained as a direct or an indirect consequence of the production of the document or giving of the information or material,

is not admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under this Act or any written law in respect of the falsity of the document or the information or material.

(*i*) matters of a saving or transitional nature consequent on amendments to the regulations.".

New sections 20 and 21

16. The principal Act is amended by inserting, immediately after section 19, the following sections:

"**Service of documents**

20.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

(*a*) by giving it to the individual personally;

(*b*) by sending it by post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

(*c*) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;

(*d*) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

(*e*) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(*f*) by sending it by email to the individual's last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

(*i*) matters of a saving or transitional nature consequent on amendments to the regulations.".

New sections 20 and 21

16. The principal Act is amended by inserting, immediately after section 19, the following sections:

"**Service of documents**

20.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

(*a*) by giving it to the individual personally;

(*b*) by sending it by post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

(*c*) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;

(*d*) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

(*e*) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(*f*) by sending it by email to the individual's last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

(*a*) by giving it to any partner or other similar officer of the partnership;

(*b*) by leaving it at, or by sending it by post to, the partnership's business address;

(*c*) by sending it by fax to the fax number used at the partnership's business address; or

(*d*) by sending it by email to the partnership's last email address.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

(*a*) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

(*b*) by leaving it at, or by sending it by post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;

(*c*) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or

(*d*) by sending it by email to the last email address of the body corporate or unincorporated association.

(5) In addition, a document (other than a summons) permitted or required by this Act to be served on an individual, a partnership, a body corporate or an unincorporated association may be served —

(*a*) by giving an electronic notice to the individual, partnership, body corporate or unincorporated association (called in this section an addressee) by the addressee's chosen means of notification, stating that the document is available and how the addressee may use the addressee's chosen means of access to access the document's contents;

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(*b*) where by the exercise of reasonable diligence, the name of the addressee to whom the document is to be served cannot be ascertained, by sending an electronic communication of that document —

(i) to an Internet location address or a website associated with that addressee; or

(ii) to an account on social media associated with that addressee, if the account provides a mechanism for that addressee to receive electronic communications in that account; or

(*c*) by any other method authorised by regulations made under section 19 for the service of documents of that kind if the addressee consents (expressly or impliedly) to service of a document of that kind in that way.

(6) Service of a document takes effect —

(*a*) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(*b*) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent;

(*c*) if the document is sent by post, 2 days after the day the document was posted (even if it is returned undelivered); and

(*d*) if the document is posted on a website mentioned in subsection (5)(*b*), at the beginning of the day after the date on which subsection (5)(*b*) has been complied with.

(7) However, service of any document under this Act on a person by email or by an electronic notice at the person's chosen means of notification, may be effected only with the person's prior consent (express or implied) to service in that way.

(8) In this section —

"business address" means —

(*a*) in the case of an individual, the individual's usual or last known place of business in Singapore; or

(*b*) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

"chosen means of access", for an addressee on whom is or is to be served a document permitted or required by this Act, means an electronic means the addressee agrees with the person giving or serving the document as the means by which the addressee may access that document's contents;

"chosen means of notification", for an addressee on whom is or is to be served a document permitted or required by this Act, means an electronic means that the addressee nominates to the person giving or serving the document as the means by which the addressee may be notified that such a document has been served on the addressee;

"document" includes a notice or order permitted or required by this Act to be served but not a document to be served in proceedings in court;

"last email address" means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

"residential address" means an individual's usual or last known place of residence in Singapore.

Exemption

21.—(1) The Minister may, by order in the *Gazette*, exempt any class of persons from the operation of all or any of the provisions of Part IV or the regulations made for the purpose of that Part.

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(2) All orders made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.".

Related amendments to Penal Code

17.—(1) Section 74 of the Penal Code (Cap. 224, 2008 Ed.) is amended —

(*a*) by deleting the words "one and a half times" in subsection (1) and substituting the words "2 times"; and

(*b*) by deleting paragraph (*a*) of subsection (2) and substituting the following paragraph:

"(*a*) an offence under this Code except sections 298 and 298A, and an offence which is punishable with death or imprisonment for life;".

(2) Chapter XV of the Penal Code is amended by deleting the words "RELIGION OR" in the Chapter heading.

(3) Sections 295, 296 and 297 of the Penal Code are repealed.

(4) Section 298 of the Penal Code is amended by deleting the words "religious or" (including the section heading).

(5) Section 298A of the Penal Code is amended —

(*a*) by deleting the words "religion or" in paragraph (*a*) and the section heading; and

(*b*) by deleting the words "religious or" in paragraphs (*a*) and (*b*).

Consequential and related amendments to other Acts

18.—(1) The First Schedule to the Criminal Procedure Code (Cap. 68, 2012 Ed.) is amended —

(*a*) by deleting the words "RELIGION OR" in the heading of Chapter XV;

(*b*) by deleting the items relating to sections 295, 296 and 297;

(*c*) by deleting the item relating to section 298 and substituting the following item:

"

298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person or causing any matter however represented to be seen or heard by that person, with intention to wound his racial feelings	Shall not arrest without warrant	Summons	Bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court

"; and

(*d*) by deleting the words "religion or" under the second column in the item relating to section 298A.

(2) The Fourth Schedule to the Criminal Procedure Code is amended —

(*a*) by deleting the words "religion or" in the heading of Chapter XV of Part I;

(*b*) by deleting the words "religious or" in the third and fourth columns of item 19 of Part I; and

(*c*) by inserting, immediately after Part III, the following Part:

"PART IV

OFFENCE UNDER MAINTENANCE OF RELIGIOUS HARMONY ACT

First column	*Second column*	*Third column*	*Fourth column*
Item No.	*Section*	*Offence*	*Explanatory Note*
57.	17F(2) or (4)	Knowingly engaging in conduct that insults the religion or religious belief or activity, or wounds the religious feelings, of another person	Compoundable by the person whose religion or religious belief or activity is insulted or whose religious feeling is wounded

".

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(3) The Second Schedule to the Mutual Assistance in Criminal Matters Act (Cap. 190A, 2001 Ed.) is amended —

(*a*) by inserting, immediately after item 111, the following heading and items:

"

Maintenance of Religious Harmony Act (Cap. 167A)	
111A. Section 17E(1), (2), (3) or (4)	Urging violence on religious grounds or against religious group, etc.
111B. Section 17F(1), (2), (3) or (4)	Inciting hatred, ill-will, etc.

";

(*b*) by deleting the words "religious or" in the second column of item 211; and

(*c*) by deleting the words "religion or" in the second column of item 212.

(4) The Second Schedule to the Registration of Criminals Act (Cap. 268, 1985 Ed.) is amended —

(*a*) by deleting the words "religion or" in the item relating to "Section 298A" in Part IA; and

(*b*) by inserting, immediately after the item relating to "Immigration Act" in Part II, the following item:

"Cap. 167A Maintenance of Religious Harmony Act ... Sections 17E, 17F and 17G.".

Saving and transitional provision

19.—(1) Sections 5, 6, 8 and 9 do not apply to or in relation to —

(*a*) any restraining order made before the date of commencement of sections 5 and 6; and

(*b*) any proceedings relating to or following a notice of intention to make a restraining order given under sections 8(4) and 9(4) of the principal Act before the date of commencement of sections 5 and 6,

and the principal Act as in force immediately before the date of commencement of sections 5 and 6, respectively, continue in force with respect to those restraining orders and proceedings as if this Act were not enacted.

(2) Despite section 18(2), item 19 of Part I of the Fourth Schedule to the Criminal Procedure Code as in force immediately before the date of commencement of section 18(2) continues to apply with respect to any offence under section 298 of the Penal Code committed before that date.

(3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Maintenance of Religious Harmony Act (Cap. 167A) for the following main purposes:

(*a*) to improve the process for the making of restraining orders so that these may be made and take effect more quickly without modifying the role of the Presidential Council for Religious Harmony (called the PCRH);

(*b*) to provide for additional restraining orders to be applied to religious groups so as to pre-empt, prevent or reduce any foreign influence affecting the religious groups which may undermine religious tolerance between different religious groups in Singapore and present a threat to the public peace and public order in Singapore;

(*c*) to introduce requirements for religious groups in the areas of donations, the nationality of their responsible officers and the composition of their governing bodies so as to contribute to keeping

the affairs of religious groups and inter-religious relations in Singapore free from harmful foreign influence;

(*d*) to consolidate offences involving religious vilification.

The Bill also makes consequential and related amendments to the Penal Code (Cap. 224), the Criminal Procedure Code (Cap. 68), the Mutual Assistance in Criminal Matters Act (Cap. 190A) and the Registration of Criminals Act (Cap. 268).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to introduce several new definitions to support the amendments in the subsequent clauses. These are "donation", "religious donation" and "relevant donor".

A key definition is that of "donation". This has been defined to refer only to donations in terms of money, and not money's worth. Hence, a donation of land or religious art, jewellery or books is not treated as a donation. Volunteer services by professionals, floral arrangements or free musical performances are also not regarded as donations even though for the benefit of a religious group. A pledge of moneys or royalties is also not a donation until the money is received. A cheque would, however, be a donation covered by the Bill.

A "donation" to a religious group is defined as any bequest or gift of money to the religious group or any religious institution affiliated or associated with the religious group, any money to pay or reimburse any expenditure incurred (whether directly or indirectly) by the religious group or any religious institution affiliated or associated with the religious group, or any money lent to the religious group or any religious institution affiliated or associated with the religious group otherwise than on commercial terms.

Expressly excluded from the definition of "gift" are zakat and fitrah, which are regulated under the Administration of Muslim Law Act (Cap. 3). The Minister may, by regulations made under section 19, exclude other sums of money.

Not all donations to a religious group are subject to controls under the amendments in the Bill. Only religious donations and anonymous donations are subject to control.

An "anonymous donation", for a religious group, is defined to mean a donation which the religious group accepting the donation is (whether because the donation is offered anonymously or by reason of deception or concealment) unable to ascertain the identity of the donor giving the donation. However, excluded from the definition are a donation deposited in a box, receptacle or other container in a publicly accessible location within a place of worship in Singapore for the same religion or religious denomination as the religious group, and any proceeds from a collection by the religious group, the conduct of which is authorised by the House to House and Street Collections Act (Cap. 128).

Also excluded from the definition of "anonymous donation" are cash donations collected during an act of collective worship or a religious ceremony or rite conducted by the religious group. A pledge of a share of a person's salary is not a cash donation which is excluded for this purpose. The Minister may by regulations declare other types of otherwise anonymous donations from being treated as such and exclude these from the scope of the amendments in the Bill.

The term "religious donation" is defined to mean a donation made to or for the benefit of the religious group, the whole or part of which was used or is intended to be used by the religious group solely or substantially for carrying out a religious or charitable purpose of the religious group wholly or partly in Singapore, or to enable the religious group to make, directly or indirectly, a religious donation or to incur expenditure for carrying out any of its religious or charitable purposes wholly or partly in Singapore. The Bill provides a number of examples of what would be a religious or charitable purpose.

As the Act and the amendments in the Bill draw a distinction between religious leaders and non-religious leaders, clause 2 defines "religious leader" to mean a priest, monk, pastor, mufti, imam, rabbi, elder or similar office-bearer in a religious group or religious institution. It also includes any other person who is in a position of authority in any religious group or religious institution in relation to the religious practice or worship, or the tenets of the religion or religious denomination of that group or institution. The latter could include a lay leader or preacher of a religious group or religious institution so long as the person holds a position of authority in relation to the religious practice, worship or tenets of the religion or religious denomination of that group or institution.

However, a person is not automatically a religious leader just because the person is a responsible officer of the religious group or a member of the governing body of the religious group. For example, if the responsible officer or governing body member is not holding any of the offices mentioned in the definition or any position of authority in those matters, but merely serves as a treasurer or serves regularly as a member of the choir or a musician at worship ceremonies, the responsible officer or governing body member is not a religious leader.

The Bill contains amendments capable of applying to conduct occurring outside Singapore. The expression "engaging in conduct" is used in the context of the new offences and the community remedial initiative in the new section 16H. This is defined to mean an act or omission on a single occasion as well as a series of acts or omissions, or both, on a number of occasions over a period of time, and may include conduct occurring outside Singapore. Communications activity is expressly described as engaging in conduct.

Finally, an important definition of a term used in the amendments in the Bill relating to restraining orders and offences, is the expression "communications activity". "Communications activity" is defined by an amendment in clause 2 to refer to communicating or distributing the information or material to the general

public or a section of the general public in Singapore, whether or not in the course of business. The definition expressly includes doing any of the following, whether or not in the course of business:

(*a*) placing the information or material, or something that contains the information or material, somewhere it can be accessed by another in the general public or a section of the general public in Singapore;

(*b*) giving the information or material, or something that contains the information or material, to an intermediary to give to an intended recipient in the general public or a section of the general public in Singapore;

(*c*) describing to the general public or a section of the general public in Singapore how to obtain access, or methods that are likely to facilitate access, to the information or material, or something that contains the information or material (for example, setting out the name of a website, a URL, a password or the name of a newsgroup);

(*d*) displaying, screening or playing the information or material, or something that contains the information or material, so that it can be seen or heard in or from a public place in Singapore.

The definition therefore covers modes of communication in the digital and traditional environments. As defined, private speech does not become communications activity just because it occurs in a public place. Also not regarded as undertaking communications activity is an intermediary which communicates or distributes in the course of business information or material produced entirely by another and without altering the substance of the information or material.

Clause 3 introduces 2 new sections. First, the new section 2A contains provisions required to support the amendments relating to donations to religious groups in clause 13, as well as to deal specially with communications activity involving information or material in electronic or digital form.

The new section 2A provides that anything given or transferred to any branch of a religious group (which may be a religious institution) will be treated as given or transferred to the religious group under the Act as amended by the Bill.

Likewise, anything given or transferred to any responsible officer of a religious group, member of the governing body of a religious group, or to a religious leader of a religious group in his or her capacity as such will be treated as given or transferred to the religious group.

However, where the donation is given or transferred to a responsible officer, member of the governing body or religious leader in that capacity but is solely for his or her own use or benefit, the donation will not be treated as received by the religious group.

Under the new section 2A, a donation is accepted by a religious group if it is received and retained by the religious group for its use and benefit.

The new section 2A(3) and (4) then goes on to deal with the situation where the information or material in electronic or digital form does not originate in Singapore or the origin of which cannot be determined. The provision deems that the information or material will still be treated as communicated or distributed to the general public in Singapore if the information or material is communicated or distributed or caused to be communicated or distributed by a Singapore-connected person or the Singapore-connected person takes part in that communication or distribution, and the information or material is accessible by persons physically present in Singapore.

Next, the new section 2B provides for the appointment by the Minister of a public officer as a competent authority. There can be different competent authorities for different provisions of the Act.

Clause 4 amends section 4 in connection with the functions and proceedings of the PCRH, to clarify that the PCRH makes recommendations to the President with regard to restraining orders.

Clause 5 amends section 8, relating to restraining orders against religious leaders or a member of a religious group or religious institution.

The circumstances under which a restraining order may be made are modified. Today, the Minister may make a restraining order against a religious leader or a member of a religious group or religious institution where the Minister is satisfied that that person has committed or is attempting to commit certain acts. The amendments expand this to include the circumstance where the Minister is satisfied that the religious leader or member of a religious group or religious institution (as the case may be) is committing, has committed or is likely to commit, or has attempted or is attempting to commit any of those acts.

Section 8 is also amended to empower the making of restraining orders against religious groups so as to counter foreign influence over the affairs of religious groups. A restraining order under the new section 8(1A) can be made by the Minister if the Minister is of the opinion that it is necessary or expedient so as to pre-empt, prevent or reduce any foreign influence affecting the religious group which may undermine religious tolerance between different religious groups in Singapore, and present a threat to the public peace and public order in Singapore.

The clause also amends section 8(2) to expand on the content of any restraining order against a religious leader or a member of a religious group or religious institution, having regard to modes of communication today. A restraining order can require the religious leader, or member of a religious group or religious institution, against whom the order is made to stop undertaking any communications activity involving the information or material specified or described in the order, immediately or within the period specified in the order, and

absolutely or except with the prior permission of the Minister. This is defined to include taking all reasonably practicable steps to ensure that the information or material is no longer available on or through the Internet to end users in Singapore, such as (if necessary) the removal of the information or material from an online location.

Today, a restraining order can require the religious leader or member of a religious group or religious institution to stop printing or editing, or assisting or contributing to, any publication produced by any religious group without the prior permission of the Minister. The amendment expands the power to include a publication produced by any religious institution.

Where the restraining order is made against a religious group under the new section 8(1A), the restraining order can require the religious group to not accept any anonymous donation, to not accept any religious donation from a foreign principal specified in the order, to return any religious donation received, on or after a date specified in the order, from a foreign principal specified in the order, or to dispose of any anonymous donation received, on or after a date specified in the order. The restraining order may specify the manner in which, and has to set out the period within which, the religious donations concerned must be sent back to the person who made the donation or any other person appearing to be acting on the donor's behalf.

If a restraining order under the new section 8(1A) requires an anonymous donation to be disposed of, then where the donation was transmitted by a person (other than the donor) and the identity of that person is apparent, the whole donation must be returned to that person. Where it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, the whole donation must then be returned to that financial institution. In all other cases, the whole donation must be sent to a competent authority. All anonymous donations sent to a competent authority must then be paid into the Consolidated Fund.

A restraining order under the new section 8(1A) can also pertain to the composition of the governing body of a religious group. The order may require the religious group to ensure that on or after a date specified in the order, every member of the governing body of the religious group is a citizen of Singapore or require the religious group to remove a member of the governing body of the religious group specified in the order, being an individual who is not a citizen of Singapore. The restraining order can also suspend (not exceeding 24 continuous months) a member of the governing body of the religious group who is not a citizen of Singapore from the exercise of his or her office as a member of the governing body pending his or her removal under the restraining order.

A restraining order under the new section 8(1A) can only apply after the requirements in the new sections 16D and 16E are triggered. The amendments

here may therefore be brought into force on a separate date from the other amendments to section 8.

Clause 5 also changes the process for making a restraining order to enable action to be taken quickly to address tensions between religious groups, stop subversive activities or the carrying out of activities to promote a political cause while or under the guise of propagating or practising any religious belief, etc.

Under the amendments, the Minister is not required to give any person notice, or consult any person, before making any restraining order under section 8(1) or (1A). Under present law, before making a restraining order, the Minister has to give the person against whom the order is proposed to be made and the head or governing body of the religious group or institution notice of the Minister's intention to make the order, and give them 14 days to make written representations to the Minister.

Under the amendments, the Minister is required after making a restraining order under section 8(1) or (1A) against a religious leader of any religious group or religious institution or a member thereof, or a religious group (as the case may be), to immediately give, or cause to be given, a copy of the order, and the grounds, facts and documents supporting the order, to the religious leader or member or the religious group against whom the order is made, and the head or governing body of that religious group or religious institution.

The clause further amends section 8 to provide that a restraining order made by the Minister under section 8(1) or (1A) against a religious leader of a religious group or religious institution or a member thereof, or a religious group, takes effect on the date it is given to the religious leader or member or religious group, as the case may be.

Finally, section 8(3) is amended to make it clear that a restraining order, which takes effect immediately once made, stays in force for a period specified in the order (the maximum length of which is unchanged at 2 years) unless the restraining order fails to be confirmed by the President. Under section 12(1), the President is provided 30 days upon receiving the PCRH's recommendations, to decide whether to confirm the restraining order on the advice of the Cabinet. The President's discretion to deviate from the Cabinet's advice is retained where the PCRH's recommendation differs from that of the Cabinet.

Clause 6 amends section 9, which deals with restraining orders against any person who is inciting, instigating or encouraging any religious group or religious institution or any religious leader or member against whom a restraining order can be made under section 8(1), to commit certain acts for which a restraining order may issue (called third parties).

The process for making a restraining order under section 9 against third parties is similarly amended as in section 8.

Likewise, section 9(3) is amended to make it clear that a restraining order made under section 9(1), which takes effect immediately once made, stays in force for a period specified in the order (the maximum length of which is unchanged at 2 years) unless the restraining order fails to be confirmed by the President. Under section 12(1), the President is provided 30 days upon receiving the PCRH's recommendations, to decide whether to confirm the restraining order on the advice of the Cabinet. The President's discretion to deviate from the Cabinet's advice is retained where the PCRH's recommendation differs from that of the Cabinet.

Clause 7 repeals section 10 of the Act because it is made redundant by the new process contained in the amendments in clause 5 to section 8 and in clause 8 to section 11. In its place is a new section 10 which makes clear that the expanded powers to make restraining orders, the issuance of a community remedial initiative and the competent authority's directions do not (except as provided in the new section 16F) affect any other written law which may apply to situations covered by the Act. For example, the Internal Security Act (Cap. 143) has powers to deal with insurgent activities and religious groups are often societies, which are also regulated under the Societies Act (Cap. 311).

Clause 8 amends section 11 to set out a new process of what happens after a restraining order made by the Minister under section 8(1) or (1A) or 9(1) (as amended) is referred to the PCRH.

The amendments provide that the Minister must, after making a restraining order under section 8(1) or (1A) or 9(1), immediately give or cause to be given, to the PCRH a copy of the order and the grounds, facts and documents supporting the order.

The person against whom the restraining order is made, and the head or governing body of the religious group or religious institution named in the restraining order, is entitled to make representations to the PCRH against the restraining order. The time delimited for representations to be made to the PCRH is 14 days after the restraining order is given to the person against whom the restraining order is made.

An amendment is made to section 11(2) to reflect the change in clauses 5 and 6, under which the Minister does not need to give a person an opportunity to make representations before the Minister makes a restraining order.

Section 11 is also amended to allow the PCRH, if it considers it necessary for its deliberations, to invite any person to attend before the PCRH and be examined on the matter. The PCRH today is already allowed to call on the person against whom a restraining order is made to attend before the PCRH to be orally examined at its meeting.

Finally, section 11(4) is amended so that the period the PCRH must arrive at a decision to recommend to the President is extended to 30 days after the time for

making representations to the PCRH lapses, and not 30 days from the time the restraining order is given to the person against whom the restraining order is made.

Clause 9 amends section 12 by changing the cross-references in the provision as a consequence of the amendments in clauses 5 and 6. Under section 12(1), the President is still provided 30 days upon receiving the PCRH's recommendations, to decide whether to confirm a restraining order on the advice of the Cabinet. The President's discretion to deviate from the Cabinet's advice is retained where the PCRH's recommendation differs from that of the Cabinet.

Clause 10 amends section 13, which relates to the extension of restraining orders. Under sections 8(3) and 9(3), a restraining order is in force for a period specified in the order, which in no case can exceed 2 years.

Section 13 is further amended to make clear that sections 11 and 12 apply to any direction to extend a restraining order as if a reference in those provisions to an order includes a reference to a direction to extend, but that the PCRH may recommend that a direction to extend be confirmed or cancelled only.

Clause 11 makes an amendment to section 14(2) to extend the power of the Minister to revoke restraining orders to include those made under sections 8 and 9 as well as those extended under section 13.

Clause 12 deletes section 16(2) because it is made redundant by the new section 17C introduced by clause 14. The other amendments are consequential upon the changes contained in clause 5.

Clause 13 inserts new Parts IV and V. Part IV sets out general countermeasures which apply to all religious groups to counter foreign influence over the affairs of religious groups. Part V contains provisions which are supplementary or in aid of the countermeasures in the rest of the Act.

Part IV is made up of 5 new sections, namely sections 16A to 16E.

The new section 16A requires every reportable donation accepted by any religious group during each reporting period to be disclosed to a competent authority in a donation report which must accord with the requirements under the new section.

A donation is treated as accepted by a religious group if it is received and retained by or on behalf of the religious group for its use or benefit; see the new section 2A(1) inserted by clause 3.

A "reportable donation" is defined by amendments in clause 2 to mean a religious donation given by a relevant donor to and accepted by the religious group, which is of or exceeding $10,000 on any one occasion, without aggregating any earlier donation by the same relevant donor to the same religious group.

A "relevant donor" is defined by the amendments in clause 2 to mean a person who makes a religious donation to the religious group and who, at the time the

donation is accepted by the religious group, is neither a citizen of Singapore nor a permanent resident of Singapore, and is not a resident which the regulations will prescribe to be permissible. The latter may be long-term dependent or work pass holders.

Where the donor is not an individual but an entity, the entity is a relevant donor if it is not registered in Singapore (even if incorporated outside Singapore), or is not incorporated, under any written law of Singapore, or is not a corporation sole or corporation aggregate established under a private Act for religious purposes.

An anonymous donation given to and accepted by the religious group, which is of or exceeding $10,000, is also a reportable donation.

The donation report is an annual document in respect of a reporting period, which is a period of 12 months corresponding to the calendar year. It has to be given to a competent authority no later than 1 April of the year following the year in which the reportable donation was accepted.

The information to be included in a donation report will be set out in regulations which the Minister is empowered to make under section 19. The information could include, in respect of each reportable donation, the identity of the donor (including his or her name, identity card number, address and nationality), the amount of the donation and the circumstances in which the donation was made.

The donation report of a religious group has to be signed by every responsible officer of the religious group and must be accompanied by a declaration made by every responsible officer of the religious group. Where a religious group accepts no religious donation which requires reporting, the responsible officers must still prepare a declaration to that effect.

The new section 16B imposes a requirement on religious groups to disclose foreign affiliations to a competent authority through an annual foreign affiliations report. Disclosure to a competent authority is required of every arrangement or agreement to which a religious group is party during a reporting period, being an arrangement or agreement which is with a foreign principal, and under which the religious group is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the foreign principal, or under which the foreign principal is in a position to exercise, in any other way, total or substantial control over the religious group's activities in Singapore.

The reporting period is a period of 12 months corresponding to the calendar year. A foreign affiliations report has to be given to a competent authority no later than 1 April of the year following the year to which the foreign affiliations report relates.

The information to be included in a foreign affiliations report will be set out in regulations which the Minister is empowered to make under section 19. A foreign

affiliations report of a religious group has to be signed by every responsible officer of the religious group and must be accompanied by a declaration made by every responsible officer of the religious group.

The new section 16C imposes a requirement on religious groups to disclose the composition of its governing body in a key management report to a competent authority.

The disclosure required is about every individual who is a member of the governing body of any religious group on the day the new section 16C comes into force, or is or becomes (whether by appointment or election or otherwise) thereafter a member of the governing body of any religious group.

A religious group is also required to give a competent authority a key management report whenever any individual, for any reason, stops acting as a member of the governing body of the religious group. The latter situation can arise due to resignation or death.

In addition, a religious group must give a competent authority information about its constitution, memorandum or articles of association, trust deed or equivalent instrument of the religious group as in effect on the day the new section 16C comes into force, and whenever there is a change thereafter to its constitution, memorandum or articles of association, trust deed or equivalent instrument, where that is a change affecting (directly or indirectly) the size or composition of its governing body.

For a key management report relating to appointments and the constitution, memorandum or articles of association, trust deed or equivalent instrument of the religious group as in effect on the day the new section 16C comes into force, the report must be given not later than 60 days after that day. In all other cases, the key management report has to be given within 30 days after the happening of the relevant event. The competent authority has the power to grant extensions on a case-by-case basis.

The information to be included in a key management report will be set out in regulations which the Minister is empowered to make under section 19. This will include details about the identity, nationality and other particulars of every such individual who is or becomes a member of the governing body of the religious group and of every responsible officer of the religious group, and details about changes to the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group affecting the size or composition (or both) of its governing body.

Every key management report of a religious group has to be signed by every responsible officer of the religious group.

The new section 16D places a general requirement on all religious groups in Singapore prohibiting these religious groups from appointing (or re-appointing)

an individual who is not a citizen of Singapore and not a Singapore permanent resident as a responsible officer of the religious group, or from permitting an individual who is not a citizen of Singapore and not a Singapore permanent resident to act as a responsible officer of the religious group, unless the religious group does so in accordance with the approval of the Minister.

The requirement in the new section 16D does not apply when the Bill's amendments first come into force. The prohibition in the new section 16D is triggered to apply only on or after a date the Minister will specify by an order in the *Gazette*. This is to give time for religious groups to prepare for this new requirement.

Once the Minister triggers the application of section 16D by order in the *Gazette*, that order cannot be revoked. Any subsequent change to or lifting of the requirement in section 16D must be by way of an amendment to the Act or by way of an exemption under the new section 21.

Where a competent authority is satisfied that a religious group in Singapore has acted in contravention of the prohibition in the new section 16D, the competent authority is given power to direct the religious group to remove the responsible officer from his or her office or employment within the period specified in the notice, and the religious group must comply with that direction.

A competent authority is not required to give any person notice of, or consult any person on, the competent authority's intention to direct a religious group to remove an individual from his or her office or employment.

Even though the direction takes effect immediately and must be complied with once given, if a religious group which is directed, or the individual required to be removed in a direction, is aggrieved by the direction, the religious group or the individual (as the case may be) may appeal to the Minister. The appeal must, however, be made within 14 days after the competent authority's notice of the direction is given to the religious group or individual (as the case may be).

In the event that for any reason (such as by resignation, death or otherwise), a responsible officer of a religious group ceases to be either a citizen of Singapore or a Singapore permanent resident, the religious group has to give written notice of that event to the competent authority, within 30 days after the religious group first becomes aware of that event. This can include a situation of loss of Singapore citizenship or Singapore permanent resident status.

The new section 16E introduces a requirement for every religious group in Singapore to ensure that more than half of the total number of seats in its governing body are occupied or held by individuals who are citizens of Singapore unless the religious group is expressly allowed by the Minister to do otherwise.

The majority is defined in terms of the actual number of seats on the governing body and disregards vacancies.

As is the case for the new section 16D, the requirement in the new section 16E does not apply when the Bill's amendments first come into force. The prohibition in the new section 16E is triggered to apply only on or after a date the Minister will specify by an order in the *Gazette*. This is to give time for religious groups to prepare for this new requirement.

Once the Minister triggers the application of section 16E by order in the *Gazette*, that order cannot be revoked. Any subsequent change to or lifting of the requirement in section 16E must be by way of an amendment to the Act or by way of an exemption under the new section 21.

Where a competent authority is satisfied that a religious group in Singapore has, without the Minister's approval, permitted half or more than half of the total number of seats in its governing body to be occupied or held by individuals who are not citizens of Singapore, the competent authority has power to direct the religious group to remove such number of members of the governing body who are not citizens of Singapore from their office within the period specified in the notice.

A competent authority is not required to give any person notice of, or consult any person on, the competent authority's intention to direct a religious group to remove an individual from his or her office.

Even though the direction takes effect immediately and must be complied with once given, if a religious group which is directed, or the individual required to be removed in a direction, is aggrieved by the direction, the religious group or the individual (as the case may be) may appeal to the Minister. The appeal must, however, be made within 14 days after the competent authority's notice of the direction is given to the religious group or individual (as the case may be).

Finally, clause 13 inserts a new Part V, which is made up of 3 sections.

The new section 16F makes clear that a restraining order under the new section 8(1A) and the directions under the new section 16D(2) or (3) or 16E(2) or (3) have effect despite the provisions of any other written law in force and the constitution, memorandum or articles of association, trust deed or equivalent instrument of a religious group.

As there can be constitutions, trust deeds, etc., of religious groups which are inconsistent with a requirement in a restraining order under the new section 8(1A) or in a direction under the new section 16D(2) or (3) or 16E(2) or (3), or there are non-national incumbent office-holders of religious groups whose terms are current when the new section 16D or 16E is triggered, the new section 16F provides that no criminal or civil liability will be incurred by a religious group in Singapore, or any person acting on behalf of the religious group, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the religious group under a requirement

of the restraining order or the competent authority's direction under the new section 16D or 16E.

The new section 16G confers power on a competent authority to require by notice any religious group to provide, within a reasonable period specified in the notice, a document or all information or material (or both) for enforcement purposes, where the document, information or material are within the knowledge of that religious group or in the custody or under the control of the religious group.

Enforcement purposes are to determine whether any information or material provided to a competent authority under a provision of the Act or its subsidiary legislation is correct and to determine whether there are grounds for any direction or restraining order to be given under the Act against a religious group.

The new section 16H deals with the community remedial initiative, which is aimed at more expeditiously and better addressing inter-religious tensions.

A community remedial initiative is an agreement between the Minister and an alleged offender under which the alleged offender agrees to take one or more remedial actions, participate in one or more activities, or do any other thing, to promote religious harmony in Singapore. This may include issuing a public apology or taking part in community programmes at his or her expense.

An offer of a community remedial initiative may be made by the Minister to an alleged offender. An alleged offender is a person (whether or not a religious leader), who in the opinion of the Minister, is attempting to engage in conduct, is engaging or has engaged in conduct, or is likely to engage in conduct that causes, or the alleged offender knows is likely to incite, feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a person or a group in Singapore, or conduct on the ground of religion or religious belief or activity and that the alleged offender knows is likely to insult the religion or religious belief or activity, or is likely to wound the religious feelings, of another person (as defined for the offences in the new sections 17E and 17F).

A community remedial initiative is an agreement that may be entered into between the alleged offender and the Minister in lieu of prosecution for the alleged offence committed by that conduct. A person may choose whether to enter into a community remedial initiative with the Minister.

Under the new section 16H, the Minister is empowered to offer an alleged offender an opportunity to take one or more remedial actions, participate in one or more activities, or do any other thing, to promote religious harmony in Singapore. However, no offer can be made with respect to any conduct or attempt to engage in conduct occurring before the date of commencement of section 13 of the Maintenance of Religious Harmony (Amendment) Act 2019. The latter is necessary so as to observe the constitutional prohibition against retroactive criminal laws.

If the Minister believes that an alleged offender who entered into a community remedial initiative has failed to comply with the terms of that agreement, the Minister may terminate the community remedial initiative and refer the alleged offence to the Public Prosecutor. It is only while a community remedial initiative in respect of an alleged offence is in force that the alleged offender cannot be prosecuted for that alleged offence under the Act or any other written law in any criminal proceedings.

Clause 14 inserts new sections 17A to 17L pertaining to offences.

The new sections 17A and 17B are standard provisions for the liability of officers of offenders who are corporations or unincorporated bodies.

The new section 17A deals with corporate offenders and for attributing criminal liability to officers of corporate entities for offences committed by their entities. Corporations like companies can be held directly liable for the conduct and can be found guilty of, and punished for, the commission of an offence. As a separate legal entity, liability for the offence is imposed on the corporation itself and is not generally attributed to its officers and employees unless there is a provision like the section. This standard provision in many laws has been redrafted here to be consistent with the modern Singapore drafting style to make it easier to read and understand.

The new section 17B deals with unincorporated entities like partnerships and associations and for attributing criminal liability to officers of unincorporated entities for offences committed by their bodies. The section also provides clarity where the offence by the unincorporated entity requires a mental element and is not a strict liability offence.

The new section 17C confers jurisdiction on a District Court to try any offence under the Bill and to impose the full punishment for any such offence.

The new section 17D provides powers of composition that may be exercised by a competent authority.

An offence which is prescribed by regulations as a compoundable offence may be compounded by collecting from a person reasonably suspected of having committed the offence a sum not exceeding one half of the amount of the maximum fine that is prescribed for the offence or $5,000, whichever is lower.

The new sections 17E, 17F and 17G set out the more serious offences and the interpretative provisions relating to these matters. The sections do not criminalise religious hatred per se but defines the limits of acceptable behaviour so as to constitute an offence.

The new section 17E covers offences which involve knowingly urging the use of force or violence on religious grounds or against target groups or target persons in Singapore.

The offence in the new section 17E(1) and (2) deals with the offence of knowingly urging, on the ground of religion or religious belief or activity, the use of force or violence, and the target group or target person is distinguished by religion or religious belief or activity, or by ethnicity, descent, nationality, language or political opinion, or any other characteristic whether or not of a similar kind.

The target group need not be confined to persons who practise a certain religion. The target group may be made up of atheists, individuals from a specific racial community, who share a similar sexual orientation, or have a certain nationality or descent like foreign workers or new citizens.

For the offences under the new section 17E(1) or (2), so long as the use of force or violence is urged, there is no need to be concerned whether that would threaten the public peace or public order in Singapore or any part of Singapore.

The new section 17E(3) and (4) sets out offences which involve knowingly engaging in conduct urging another person, or a group of persons, to use force or violence against a target person or target group in Singapore knowing that force or violence is likely to occur. The conduct is not engaged in on the ground of religion or religious belief or activity, but the target group is distinguished only by religion or religious belief or activity (as defined).

What is "religious belief or activity" is defined to mean holding a religious belief or view or engaging in religious activity. The definition does not extend to cover atheists or persons who lack any religious belief or view.

The punishment for every offence under the new section 17E is imprisonment for a term not exceeding 10 years or a fine, or both.

The new section 17F(1) and (2) makes it an offence if a person who is a religious leader knowingly engages in conduct that incites feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a group (a target group), or that insults the religion or religious belief or activity, or wounds the religious feelings, of another person (a target person), being a target group or target person distinguished by religion or religious belief or activity, and the religious leader does so knowing that feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, the target group is likely to occur or that the religion or religious belief or activity of the target person is likely to be insulted or the religious feelings of the target person are likely to be wounded.

A separate but similar offence is provided for under section 17F(3) and (4) where the person doing the same acts above is not a religious leader, and the feelings of enmity, hatred, ill-will or hostility against, or contempt for or ridicule of, a target group or target person, and the insult or wounding (as the case may be), would threaten the public peace or public order in Singapore or any part of Singapore.

In the new section 17F, "religious belief or activity" is defined similarly as in the new section 17E.

An exception is where a person points out in good faith any matters that are producing or have a tendency to produce feelings of enmity, hatred, ill-will or hostility between different religious groups, or are insulting the religion or religious belief or activity or wounding the religious feelings of a person or persons distinguished by religion or religious belief or activity, in order to bring about a removal of those matters.

The offence under section 17F(3) or (4) does not extend to private conduct. That is, it is a defence if the conduct is one intended to be heard or seen only by themselves but not conduct in circumstances in which the parties to the conduct ought reasonably to expect that it may be heard or seen by someone else.

However, the defence for the offence under the new section 17F(1) or (2) involving religious leaders is narrower. Only domestic communications (such as between the accused and relatives or members of his or her household) and intended to be heard or seen only by themselves, but not in circumstances in which the parties to the communication ought reasonably to expect that it may be heard or seen by someone else, will lie outside the offence under the new section 17F(1) or (2). For example, a private conversation between a religious leader and his or her children in the presence of the domestic worker living in the same household. Another example would be a private discussion between the religious leader and friends taking place within the residence of the religious leader (which may be a common lodging like a monastery) in conditions not reasonably intended for others to see or hear.

The punishment for all offences under the new section 17F is the same. That is, imprisonment for a term not exceeding 5 years or a fine, or both.

The new section 17G is an interpretative provision for the purposes of the new offences in the new sections 17E and 17F.

The new sections 17H to 17L contain lesser offences relating to the countermeasures against foreign influence.

The new section 17H provides for the offence of a religious group not giving to a competent authority a donation report, foreign affiliations report or key management report which is required under Part IV in respect of a religious group or any declaration relating to any such report which is required under Part IV in respect of a religious group, in accordance with the requirements of that Part. If this happens, every responsible officer of the religious group is guilty of an offence and is each liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part of a day during which the offence continues after conviction.

There is also another strict liability offence where in a donation report, foreign affiliations report or key management report, or a declaration relating to such a report, which is required to be given under Part IV in respect of a religious group, there is a statement that is false or misleading in a material particular, or an omission of any matter or thing without which the donation report or declaration is misleading in a material particular, and the report or declaration is given to a competent authority. Every responsible officer of the religious group is guilty of an offence and is each liable on conviction to a fine not exceeding $5,000.

But where a responsible officer of a religious group, with an intent to deceive, makes in a donation report, foreign affiliations report or key management report which is required to be given under Part IV in respect of the religious group a statement that is false or misleading in a material particular or an omission of any matter or thing without which the report is misleading in a material particular, or a false declaration required to be given under Part IV in respect of a donation report, foreign affiliations report or key management report of the religious group, the responsible officer is guilty of an offence and is liable on conviction to a fine not exceeding $10,000 and, in the case of a second or subsequent conviction, to a fine not exceeding $20,000.

The new section 17I sets out offences aimed generally at persons other than the responsible officers of a religious group or the group itself. The new section 17I(1) makes it an offence for a person who, with intent to deceive, withholds from a religious group any material information relating to the identity of a donor of a religious donation or the amount of a religious donation to the religious group, or intentionally or knowingly gives, in relation to the identity of a donor of a religious donation or the amount of a religious donation to a religious group, information to the religious group which is false or misleading in a material particular.

The new section 17I(2) provides for an offence where a person enters into or knowingly does any act in furtherance of any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of a donation to a religious group by a person prohibited by a restraining order under the new section 8(1A).

The punishment is a fine not exceeding $10,000 and, in the case of a second or subsequent conviction, a fine not exceeding $20,000.

The new section 17J concerns a religious group failing to give notice to a competent authority within the time required by the new section 16D(8) and permitting an individual who is not a citizen of Singapore and not a Singapore permanent resident to act as a responsible officer of the religious group in contravention of section 16D(2).

There is also an offence if a religious group fails to give notice to a competent authority within the time required by the new section 16E(8) and the religious group permits half or more than half of the total number of seats in its governing

body to be occupied or held by individuals who are not citizens of Singapore in contravention of section 16E(2).

The punishment is a fine not exceeding $5,000 and, in the case of a continuing offence, a further fine not exceeding $500 for every day or part of a day during which the offence continues after conviction.

The new section 17K sets out the offence of giving information or material or producing a document to a competent authority knowing that the information or material or the document is false or misleading in a material particular or the information or material omits any matter or thing without which the information or material is misleading in a material particular.

The punishment is a fine not exceeding $10,000 and, in the case of a second or subsequent conviction, a fine not exceeding $20,000.

The new section 17L makes it an offence if the person who is required by a notice given to the person under section 16G to provide a document or information or material to a competent authority does not do so. The offence is a strict liability offence.

It is also not a defence for a person to refuse or fail to provide any document or any information or material if doing so might tend to incriminate that person. However, the new section 17L acknowledges that the coercive information-gathering power should be accompanied by an appropriate protection for the informant. It provides that where a person claims, before producing any document or giving any information or material that the person is required by section 16G to produce or give, that the production of the document or the giving of the information or material might tend to incriminate him or her, that document or information or material, the fact of the production of the document or the provision of the information or material, or any information, document or thing obtained as a direct or an indirect consequence of the production of the document or giving of the information or material, is not admissible in evidence against the person in any criminal proceedings. However, the protection will not apply in proceedings for an offence under the Act or any written law in respect of the falsity of the document or the information or material.

Clause 15 amends section 19 which relates to regulation making. The power of the Minister to make regulations is expanded to deal with the new areas covered by the amendments in the preceding clauses.

The regulation-making powers in section 19 are extended to cover requiring the making, keeping and auditing of records of religious donations and anonymous donations received and accepted by religious groups, and requiring and otherwise providing for the production, examination and copying of those records. Regulations may also require the making and keeping of records of affiliations, and the responsible officers and governing bodies of religious groups, and

requiring and otherwise providing for the production, examination and copying of those records.

In addition, the Minister may make regulations to deal with the procedure by which the PCRH is to follow when it receives representations and when it makes recommendations to the President.

Clause 16 introduces 2 new sections, namely sections 20 and 21.

The new section 20 provides for the service of documents permitted or required to be served under the Act as amended by the Bill, but not documents required for proceedings in court. The latter fall within the purview of the Rules Committee under the Supreme Court of Judicature Act (Cap. 322).

The new section 20 provides for a range of methods for serving documents, with modes of service that follow the technological advances in communications. In addition to service by fax, service by email is also permissible at the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under the Act.

Service is also permitted by giving an electronic notice to the individual, partnership, body corporate or unincorporated association (called an addressee) by the addressee's chosen means of notification, stating that the document is available and how the addressee may use the addressee's chosen means of access to access the document's contents. For example, a recipient of a notice may choose to be notified by a mobile phone application that notifies the person that a notice to the person is available to be accessed on a website maintained by a competent authority.

However, service of any document on a person by email or by an electronic notice at the person's chosen means of notification may be effected only with the person's prior consent to service in that way. The consent may be given expressly or impliedly. An instance of implied consent may be by not opting out within the allowed time, such as when the sender informs the recipient of the intention to serve all notices using an electronic mode unless the recipient notifies the sender that the recipient does not agree to accepting service in that way.

Finally, there is also facility for service by any other method authorised by regulations for the service of documents of that kind if the addressee consents (expressly or impliedly) to service of a document of that kind in that way.

The new section 20 also provides for special service arrangements for a person where by the exercise of reasonable diligence, the name of the addressee to whom the document is to be served cannot be ascertained. The provision allows the document to be served by electronic communication to an Internet location address or a website associated with that addressee, or to an account on social media associated with that addressee, if the account provides a mechanism for that addressee to receive electronic communications in that account.

The new section 21 confers an exemption power on the Minister to disapply any provision in the new Part IV or the regulations made for the purposes of that Part to any person. This has to be done by way of an order in the *Gazette*.

Clause 17 contains related amendments to the Penal Code. The first batch of amendments is to section 74 of the Penal Code to provide for enhancement of punishment for racially or religiously aggravated offences, from one and a half times to 2 times the amount of punishment to which an accused would otherwise have been liable for that offence. The list of offences which may attract the enhanced punishment is no longer a closed list in section 74 but any offence under the Penal Code except for sections 298 and 298A, and an offence which is punishable with death or imprisonment for life.

This is because clause 17 also amends sections 298 and 298A of the Penal Code to remove the religious elements in those offences. Sections 295, 296 and 297 of the Penal Code are also repealed since the new sections 17E and 17F introduced by clause 14 incorporate many of their elements.

Clause 18 contains consequential amendments to the Criminal Procedure Code, the Mutual Assistance in Criminal Matters Act and the Registration of Criminals Act.

Clause 19 is a saving and transitional provision which preserves the Act as in force before the amendments in clauses 5, 6, 8 and 9 come into force, in relation to restraining orders made before the amendments come into force.

Clause 19 further empowers the Minister to make regulations prescribing such additional provisions of a saving or transitional nature consequent on the enactment of any provision in the Bill, as the Minister may consider necessary or expedient. The Minister has power to do so only within 2 years after the date of commencement of the provision.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

On this 31st day of January 2021.

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Justice Janak De Silva

Judge of the Supreme Court

Chairman, Commission of Inquiry

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Justice Nissanka Bandula Karunarathna

Judge of the Court of Appeal

.....

Justice Nihal Sunil Rajapakse,

Retired Judge of the Court of Appeal

.....

Atapattu Liyanage Bandula Kumara Atapattu

Retired Judge of the High Court

.....

Ms. W.M.M.R. Adikari,

Retired Ministry Secretary