

UNSAFE AT HOME

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STATE OBLIGATIONS TOWARDS
REFUGEES & ASYLUM-SEEKERS IN SRI LANKA

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CONTENTS

1. EXECUTIVE SUMMARY	5
2. BACKGROUND	8
3. METHODOLOGY	12
4. THE SITUATION BEFORE THE 21 APRIL ATTACKS	14
5. FEARING FOR THEIR LIVES	16
5.1 STATE RESPONSE TO THE CRISIS	19
5.2 DISCRIMINATION AFTER THE ATTACKS	23
6. STATE RESPONSIBILITY	24
7. CONCLUSIONS	25
8. ANNEX 1	27

GLOSSARY

FGD	Focus Group Discussion
GOSL	Government of Sri Lanka
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
<i>REFOULEMENT</i>	The forcible return of individuals to a place where they would be at real risk of serious human rights violations.
REFUGEE	A person who flees their country because they are at real risk of persecution or other serious human rights violations and feels they will be unprotected by their government.
<i>SUO MOTO</i>	The doctrine of <i>suo moto</i> allows, and requires, police to investigate crime of their own motion, that is without a formal complaint.
UNHCR	The office of the United Nations High Commissioner for Refugees also referred to as the UN Refugee Agency.

1. EXECUTIVE SUMMARY

Following the 21 April 2019 attacks in Sri Lanka, also known as the ‘Easter Sunday bombings’, targeting churches and hotels in Negombo, Colombo and Batticaloa, refugees and asylum seekers - primarily from Pakistan, Afghanistan and Iran- were displaced from Negombo (38 km from the capital Colombo). Amidst a hostile environment, approximately 1,063 refugees and asylum seekers left their homes, some forced to do so due to direct threats of violence by individuals and groups armed with knives and sticks, and relocated to two community centres and a police station close to their original homes. Thereafter, over 150 refugees and asylum seekers who were sheltering at the garage of a local police station were moved to a camp located in Vavuniya, in the north of Sri Lanka, prepared by the United Nations High Commissioner for Refugees (UNHCR) in collaboration with the government of Sri Lanka. The majority of these 150 individuals and most of those who were at the community centres have moved back to their original rented homes. Refugees and asylum seekers – many members of minority groups in their country of origin – have therefore experienced multiple forms of displacement, this most recent episode contributing to further insecurity.

The Easter Sunday Attacks comes on the back of threats and intimidation against refugees and asylum-seekers in 2017 and arrests and deportation of asylum seekers in 2014. After the 21 April attacks in 2019, the refugees and asylum seekers were not safe on the streets, in public places, or even in their own homes in Negombo and surrounding areas. The law enforcement agencies were unable to guarantee their safety, resulting in their re-location to crowded shelters in a police station and community centres.

This report reveals that the relocation/eviction/movement of over 1,000 people due to fear and violence by the community against them cannot be dismissed without appropriate investigation by the authorities in accordance with international human rights law. The treatment of refugees and asylum-seekers, and the impact on their safety, security and freedom of movement, infringed a number of human rights guaranteed to them by not only international human rights law, but also the domestic human rights legal frameworks.

There was no media coverage of any police investigations into the acts of violence, threats and intimidation directed against refugees and asylum seekers, jeopardizing the right to life, personal security and adequate housing among other human rights at risk.

Refugees and asylum seekers living in Sri Lanka have no legally recognized protection of their status as Sri Lanka has not ratified the 1951 Convention on the Status Relating to Refugees and its 1967 Protocol. Sri Lanka does however allow UNHCR to assess asylum claims in co-operation with the government.

The Sri Lankan government has an obligation to respect, protect and fulfill human rights for all persons in its territory, including in particular, rights to non-discrimination and equal protection of the law – these rights apply regardless of a person’s legal status in the country. Amnesty International and the Minority Rights Group International (MRG) call on the Government of Sri Lanka to take the required steps to guarantee the safety and security of refugees and asylum seekers within Sri Lanka. Where necessary the Sri Lankan government may also call on the international community for assistance in protecting these rights. This includes ensuring prompt, effective, independent and impartial investigations into crimes reported to the authorities, and prosecution in line with the right to a fair trial.

In light of these concerns, the criminal investigation and prosecution of these human rights violations must be promptly, independently, impartially and effectively investigated. Where there is sufficient evidence, crimes should be prosecuted in line with the right to a fair trial and without recourse to the death penalty.

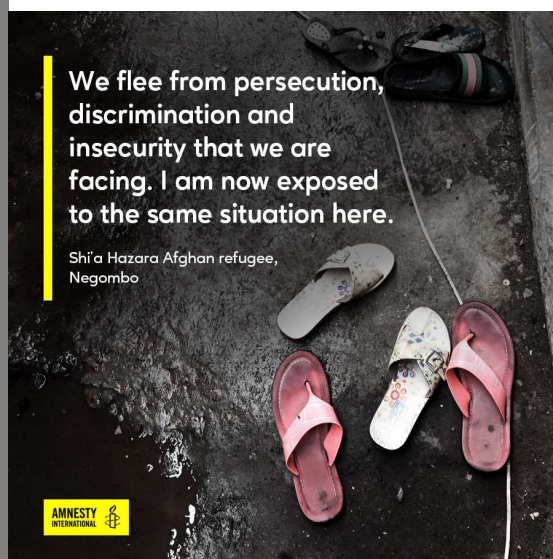
Likewise, the Sri Lankan government must protect all individuals in its territory, regardless of their legal status, and without discrimination. The Government of Sri Lanka must not only make a clear statement that violence against ethnic and religious minorities, particularly refugees and asylum seekers, will not be

tolerated and will be independently investigated in accordance with the law, but it must also take urgent steps to guarantee the safety, dignity and human rights of all refugees and asylum seekers within its territory including the right to adequate housing in both temporary and long term housing arrangements, including protection from arbitrary or forced evictions, security of tenancy and access to remedies to protect these rights at law. These guarantees must extend to the rights to safety, security and freedom of movement for refugees and asylum seekers regardless of their nationality or immigration status. Protective custody that restricts freedom of movement of refugees and asylum seekers should be for as short a time as possible, where necessary, proportionate and in accordance with the law, and if other alternative less restrictive means are not available.

The organizations also call for the guarantee of adequate safety and shelter, food, water and sanitation, decent living conditions and personal liberty for those refugees and asylum seekers that remain displaced, until their relocation or resettlement. Sri Lanka must accede to the Refugee Convention and the Optional Protocol to the Convention, at the earliest opportunity. Given the myths, stigma and discrimination against refugees that may trigger such violence, the government must ensure there is adequate information and educational programs to support the meaningful integration of refugees and asylum seekers in the local community and work with host communities to dispel myths, stigma and discrimination against refugees and asylum seekers.

The organizations call on the UNHCR to, if necessary and as a last resort, urge resettlement countries to expedite re-settlement and to increase the number of refugees that are granted status for re-settlement. It must carry out public information campaigns to provide accurate information about the refugees themselves, to reduce the misinformation and fear that may prevail among the general public, and create more awareness of the persecution in their home countries that refugees are fleeing.

Amnesty International and MRG conducted this research in May 2019 and this report details their findings. Amnesty International researchers carried out 39 interviews and four focus group discussions (FGDs), and, separately, a researcher commissioned by MRG carried out 19 interviews, several FGDs and meetings with organizations and activists. The primary research was conducted in three refugee shelters in Negombo and surrounding areas, while desk research corroborated facts and background of the incidents investigated here. All names have been anonymized for the safety of the refugees and asylum seekers that spoke to the researchers.



*Approximately 1,063 refugees and asylum seekers left their homes and in some cases, were forced due to threats of violence by individuals and groups armed with knives and sticks, to relocate from their homes to two community centres and a police station close to their original homes.
Photo location: Negombo Police Station, Negombo, Sri Lanka*



“ WE CAN’T GO. IF WE GO, WE WILL BE KILLED.”

Gul* is a 17-year-old Shi’a Muslim from Pakistan.¹ When we asked her what she would like to be when she was older, she said, with a face full of smiles, that she has dreams of becoming an immigration officer one day. Her sister had dreams of studying to be a doctor and was doing well in school when they had to leave Pakistan, leaving many dreams behind. After coming to Sri Lanka, Gul taught at a local school in Negombo for fellow refugees, which she enjoyed.

She fled with her family and other relatives to Sri Lanka when their home was attacked after her father gave evidence against a number of persons who had attacked a group of Ahmadi Muslims. She said, “the police said to my father, you should leave the country.” She is afraid to go back to Pakistan. She says “We can’t go. If we go, we will be killed.” Their application for asylum status in Sri Lanka had been rejected and they had appealed the decision and were awaiting the outcome of their appeal.

Gul and her family were threatened by armed mobs days after the 21 April attacks in Sri Lanka. “A lot of people came to attack us. Even my brother, they hit him and pushed us. The neighbours downstairs, they complained about us. A large mob of people 15 to 16 people came and asked us to leave in one hour. They had sticks in their hands.” She was living at the Negombo police station when we met her, uncertain of her future, and what will happen to her family. She said she felt safe there because of the police security but other issues remained challenging. The number of people at the shelter meant that there was overcrowding, and limited access to clothing that suited their religious beliefs. Clean toilets and private bathing areas were all challenges.

Her father has a heart condition. When we met Gul on 24 May, he had been rushed to the hospital in an ambulance the week before. She remains concerned for his health and fears that if he does not receive healthy food and if he continues to be subject to stress and challenging living conditions, that his situation might deteriorate further. She was worried that the insecurity and fear in which they lived was affecting his health. With trembling hands, she showed us some of his medical reports and requests for tests, which she said they did not have money to get done. Gul herself had stopped eating the food that is distributed: we first met Gul on the 7 May, and when we met her again two weeks later, she had visibly lost weight. As we spoke with her, her mother prepared instant noodles in an electric kettle, which she said was the only food she would agree to eat. “We don’t know where we will go. I am so worried about our future”.

Gul is 17 years old.

¹ Interview 13, Gul,* Shi’a from Pakistan, Female, Negombo Police Station, 7 May 2019 and 24 May 2019

2. BACKGROUND

“I saved my life from a terrible situation where both my wife and I were threatened with execution [in Afghanistan]. I worked in difficult circumstances but stayed in my country. I had to flee to save the life of my five-year old daughter. I do not deserve to face intimidation and attack once again”

Javed* Shi’a Hazara Afghan, male, Negombo Police Station²

On 21 April 2019, a group of bombers attacked three churches and three hotels in Sri Lanka, claiming the lives of more than 250 people in the deadliest violence the country has seen in a decade. Most of the victims were members of Sri Lanka’s Catholic community, who were sitting in prayer on Easter Sunday. One of the churches that was attacked was St. Sebastian’s in Negombo, a city on Sri Lanka’s west coast. More than 100 people were killed in the attack on St Sebastian’s church. In the days after the attacks, mobs took to the streets of Negombo, targeting refugees and asylum-seekers from Afghanistan, Pakistan and Iran. They were subjected to physical threats with wooden poles or sticks and were shoved or pushed in their homes, intimidated with threats against their physical safety and threatened with “consequences” if they did not leave their homes immediately. Landlords also faced harassment from those demanding that they evict refugees and asylum-seekers residing in their homes. Many refugees and asylum-seekers were forcibly evicted from their homes, and others left of their own accord in fear, seeking sanctuary at a police station and community centres in the area.

Sri Lanka is currently home to approximately 1,600 refugees and asylum-seekers, who have come to the country to register themselves with the UNHCR and seek to travel to another country to start new lives (this process is often called “resettlement”). Between 2015 and 2018, 492 people were resettled from Sri Lanka – with most of them accepted by the USA and by Canada.³ The countries of origin for refugees and asylum-seekers spoken to include Afghanistan, Iran and Pakistan. Many belong to minority groups such as Ahmadis and Christians from Pakistan as well as Shi’a Hazaras from Afghanistan, who have faced persecution on account of their religious or ethnic identity, or as in the case of the latter, both. Both Afghanistan and Pakistan are frequently cited as particularly difficult contexts for religious and ethnic minorities.⁴ This includes in MRG’s annual index, *Peoples under threat*, which highlights countries where communities face the greatest risk of genocide, mass killing or systematic violent repression. Both Afghanistan and Pakistan are consistently represented among the most severe contexts in this ranking. This includes in the most recent *Peoples under threat 2019*, where Afghanistan ranks 4th and Pakistan ranks 10th, with the conditions of minorities in both countries cited as a key contributing factor. The deportation of refugees and

² Throughout this document, wherever indicated by an asterisk, pseudonyms have been used to protect the identity of the participant.

³ UNHCR, Resettlement Data Finder, <https://rsq.unhcr.org/en/#Q16J>

⁴ Pakistan was designated a “country of particular concern” by the US Commission on International Religious Freedom in its 2019 *Annual report*, meaning its government perpetrates or tolerates severe violations of religious freedoms that are “systematic, ongoing, and egregious”. Afghanistan was similarly put on a Tier 2 list in the same report.

asylum-seekers in Sri Lanka back to Pakistan and Afghanistan would put them in highly precarious situations which may put their security, and potentially lives, at risk.



Sri Lanka is currently home to approximately 1,600 refugees and asylum-seekers, who have come to the country to register themselves with the UNHCR and seek to travel to another country to start new lives (this process is often called "resettlement"). Photo location: Negombo Police Station, Negombo, Sri Lanka

Asylum-seekers arrive in Sri Lanka with few possessions. Many of them have found rented accommodation in various parts of the country as they await a decision on their refugee claims. There were, however, several occasions when their stay was marred by official crackdowns or vigilante violence. For example, from June to September 2014, the Government of Sri Lanka began to arrest and deport asylum-seekers. Subsequent to a "special operation" that began on 9 June 2014 targeting asylum-seekers,⁵ as many as 214 persons were arrested and by August 2014, 88 Pakistani asylum-seekers were deported.⁶ By September 2014, 183 persons had been deported to Pakistan and Afghanistan.⁷ At that time the UNHCR issued several warnings to the Government of Sri Lanka of the risk of violating the international principle of *non-refoulement* by deporting Ahmadi Muslim, Shi'a and Christian minorities from Pakistan who may be in need of international protection.⁸ According to the 1951 Convention Relating to the Status of Refugees (hereinafter the Refugee Convention), Article 33(1), "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." More recently, mounting concerns over persecution of religious minorities pushed the UNHCR in 2017 to revise its eligibility guidelines for religious minorities fleeing Pakistan. These guidelines indicate that the UNHCR deems internal flight or relocation alternatives within Pakistan generally unavailable for those considered liable for criminal prosecution under Pakistan's notorious blasphemy or anti-Ahmadi laws.⁹ They further stipulate that the UNHCR considers there to be no viable alternatives within Pakistan for Ahmadi with "a well-founded fear of persecution based on religious grounds" within their home area. Although Sri Lanka has not ratified the Refugee Convention, it is nevertheless bound by the customary international law principle of *non-*

⁵ UNHCR, *UNHCR urges Sri Lanka to stop deporting asylum-seekers to Pakistan*, 2 August 2014, www.refworld.org/docid/53e082df4.html

⁶ "Sri Lanka violates refugee law by deporting Pakistanis", Reuters, 12 August 2014, www.reuters.com/article/us-sri-lanka-refugees-un/sri-lanka-violates-refugee-law-by-deporting-pakistanis-unhcr-idUSKBN0GC1JO20140812

⁷ UN High Commissioner for Refugees (UNHCR), *UNHCR urges Sri Lanka to stop deportations and provide protection to refugees and asylum-seekers*, 12 September 2014, www.unhcr.org/uk/news/briefing/2014/9/5412e24a6/unhcr-urges-sri-lanka-stop-deportations-provide-protection-refugees-asylum.html

⁸ UNHCR, *UNHCR deeply concerned as Sri Lanka continues with deportations*, 5 August 2014, www.refworld.org/docid/53e1dfe14.html; UNHCR, *UNHCR urges Sri Lanka to stop deporting asylum-seekers to Pakistan*, 2 August 2014, www.refworld.org/docid/53e082df4.html

⁹ UNHCR, *UNHCR Eligibility guidelines for assessing the international protection needs of members of religious minorities from Pakistan*, January 2017, UN Doc: HCR/EG/PAK/17/01, www.refworld.org/docid/5857ed0e4.html

refoulement. Sri Lanka's specific international human rights obligations are considered in more detail later in this report.

In another instance, on 26 September 2017, groups attacked a safe house maintained by the UNHCR, which housed a group of Rohingya refugees from Myanmar. The safe house accommodated mostly women and children, including infants. The attackers also reportedly live-streamed the attack and encouraged others to join in.¹⁰ At the time, the Minister of Finance and Media condemned the attacks against the Rohingya refugees. Eventually, the Rohingya refugees were moved to a high-security prison in the south of Sri Lanka, purportedly for their own safety.¹¹ These developments have occurred in the context of impunity for violence against religious and ethnic minorities in Sri Lanka, including Muslim and Tamil people. In the most recent incidents hundreds of properties were damaged and at least two people were killed on 13 May 2019 in riots that took place in northern suburbs of Colombo and in Chilaw, Minuwangoda, Hettipola, Kinyama and other places, targeting Muslims. Some of these towns and villages are as close as 11 km from Negombo where many of the refugees and asylum-seekers were staying.¹² Previously, property damage as well as fatalities were reported subsequent to attacks on homes, businesses and mosques in Aluthgama in June 2014,¹³ and Digana in March 2018.¹⁴ After each of these events, dozens of attackers were arrested, but there have been no convictions for the crimes committed. Some of the individuals who have been captured on video calling for violence, have not been charged for these crimes.

“AS SOON AS WE STEP ONE FOOT INTO AFGHANISTAN, WE WILL BE DEAD. THEIR INTELLIGENCE IS VERY STRONG – THEY WILL FIND US.”

MRG's researcher interviewed two Afghan asylum-seekers who shared the conditions that led them to flee to Sri Lanka. Khadija,* 39 was a senior advocacy officer in an NGO and used to travel to some of the poorer provinces of Afghanistan for awareness programmes, trainings, conferences, and meetings with governors and religious leaders. These were provinces where the Taliban had a strong influence. The Taliban accused her of introducing people to Christianity and threatened her. After a failed kidnap attempt, she escaped to India with one of her brothers, Sameer*. The Taliban subsequently kidnapped one of her other brothers in Afghanistan. Sameer returned to rescue him, and thereafter he and Khadija fled to Sri Lanka.

Rameez* lives with his wife and four children. He came to Sri Lanka with his brother, who was working for international security organizations as a humanitarian worker and translator in Afghanistan. His brother received threats from the Taliban so they all left, including his brother's family. They have been in Sri Lanka since 2014. Rameez and his family converted to Christianity while in Sri Lanka. If he and his brother returned to Afghanistan, they would be persecuted/at risk for both his brother's work and their newfound religion. “As soon as we step one foot into Afghanistan, we will be dead. Their intelligence is very strong – they will find us.”

¹⁰ “Mob attacks Rohingya Refugees in Sri Lanka”, Al Jazeera, 28 September 2017, <https://www.aljazeera.com/news/2017/09/mob-attacks-rohingya-refugees-sri-lanka-170928174408824.html> at 0.29 seconds.

¹¹ Al Jazeera, “Mob attacks Rohingya Refugees in Sri Lanka”, 28 September 2017, <https://www.aljazeera.com/news/2017/09/mob-attacks-rohingya-refugees-sri-lanka-170928174408824.html>

¹² “Sri Lanka extends nationwide curfew after anti-Muslim riots”, BBC, 15 May 2019, www.bbc.com/news/world-asia-48269240

¹³ “Sri Lanka Muslims killed in Aluthgama clashes with Buddhists”, BBC, 16 June 2014, www.bbc.com/news/world-asia-27864716; “Sri Lanka riots: At least one killed as Buddhists target Muslims”, BBC, 17 June 2014, www.bbc.com/news/world-asia-27885824

¹⁴ “Sri Lanka declares State of Emergency after mob attacks on Muslims”, *The New York Times*, 6 March 2018, www.nytimes.com/2018/03/06/world/asia/sri-lanka-anti-muslim-violence.html; “Sri Lanka violence: State of Emergency declared over attacks”, BBC, 6 March 2018, www.bbc.com/news/world-asia-43300913

JOHN,* A CIVIL SOCIETY ACTIVIST, STARTED WORKING WITH REFUGEES ALMOST SEVEN AND A HALF YEARS AGO THROUGH HIS WORK IN A CHURCH.

When he heard of the April attacks, his first reaction was to worry about the safety of the refugees. Over the course of the next few days, John worked to transfer some of the refugees to safety in buses, only to be turned back at every location, from Colombo and from a shelter in a suburb of Colombo, where different hurdles prevented the refugees and asylum-seekers from finding even temporary shelter. They eventually came back to the Negombo police station where they sought refuge for over one month. By the evening of 22 April, John says that over 30 refugees were at the police station, fearing attacks. He also describes how in one location villagers came to the shelter housing refugees and threatened the owners, asking them to evict the refugees in half an hour.

When Amnesty spoke with John on 24 May 2019, the conditions at the Negombo police station had improved; several families and single men had moved, either to their own homes or to the camps in the north of Sri Lanka.¹⁵ Since then, all refugees and asylum-seekers have been moved out of the police station, either to homes they had rented or to the camp in the north of Sri Lanka. According to John, all those whose applications had been rejected were left to fend for themselves and locate housing in a country where they continued to fear for their safety. One family had just three days' notice that their appeal had been rejected and that they would need to find alternative accommodation.

At the time he spoke to researchers, John remained concerned about the conditions in the temporary camp prepared by the UNHCR in the north of Sri Lanka. He was in contact with a few of the 35 men who were moved to the camp in the second week of May, and was worried that when families were moved to the location, it might not provide the basic necessities they needed, and with no permission to go outside the location. "Since there is no option, whether they like it or not, most of the people are forced to go to the camp. People are not going willingly but they have no options."¹⁶ Amnesty International is informed by families who were moved since this interview that conditions are better than the conditions at the police station, but the families remain worried about their future.

Because of his work with the refugees, John says he was attacked by two men at his home. They assaulted him, hitting him on the head and threatening him, as well as asking his landlord to evict him. He says one of the men followed him to the police station in Negombo, where he spent most of his time with the refugees, even sleeping at the station. According to John, this group has also inquired about him in other neighbourhoods where refugees live.

At the time he spoke to researchers, John continued to stay with the refugees, hoping for a solution that would guarantee their safety, security and basic needs.

¹⁵ Interview 15, John

¹⁶ Interview 15, John

3. METHODOLOGY

This report has been produced by research conducted by Amnesty International researchers and also by a researcher commissioned by MRG.

Researchers visited three locations where displaced or affected refugees and asylum-seekers were accommodated - two Ahmadi Muslim community centres and a police station in the town of Negombo, south of Colombo - as well as several people who continued to live in their own homes.

In each location, steps were taken to ensure the sample reflected the diversity of the displaced refugees and asylum-seekers. In total, at the time of conducting the interviews, there were approximately 1063 displaced refugees and asylum-seekers of whom over 1,000 were from Pakistan, some from Afghanistan, and of the non-displaced families, several Iranian and Afghan families who continued to live in their own homes.

Participants referred the researcher to other refugees meeting the four criteria selected: ethnicity, religion, state of origin and gender. The researcher spoke to a refugee who fulfilled the four criteria, and thereafter asked the refugee to refer the researcher to others (so-called “snowball sampling”). The researchers ensured to the greatest extent possible that the diversity of the population was captured; in relation to ethnicity, religion and state of origin. Efforts were also made to ensure that gender diversity was represented. Within each category, researchers made specific efforts to ensure that at least half the respondents were women. At the Negombo Police Station six interviews were with women and eight with men. In total 38 face-to-face interviews were conducted by four researchers over the course of two days in three locations, as well as phone interviews on a third day. One phone interview was conducted by a researcher thereafter. Researchers also ensured there was a mix of refugees, asylum-seekers, and rejected asylum-seekers from each of the locations in which they were housed. While the participant was given the option to self-identify their gender, all of the participants self-identified as male or female. Interviewees have not been identified by their real names in this report for their own safety.

The Ahmadi Muslims from Pakistan were exclusively housed at two community centres in the vicinity of or in Negombo town and another close to 40km from Negombo. Almost all the families and individuals from Afghanistan were housed at the Negombo Police Station. The Iranian families and some Afghan families were living in their own homes, and the remaining groups were all housed at the Negombo Police Station at the time the data was collected. Two weeks after the data was collected, 35 single men were transferred from the Negombo Police Station to a temporary camp in the north of Sri Lanka.¹⁷ At the time of writing, families from the Negombo Police had also been moved to the same camp.¹⁸ Others have moved back to their rented homes.

In total, Amnesty International researchers conducted 39 individual interviews over the course of three days in Negombo and at the community centre 40km from Negombo. The team also conducted four FGDs, two with men and two with women, at the two community centres.

Of these total 39 interviews, Amnesty researchers conducted 22 interviews and four FGDs at the two community centres, all of whom were with people from Pakistan.

At the Negombo police station, the following interviews were conducted: nine interviews with refugees and asylum-seekers from Afghanistan, and six interviews with Pakistani refugees and asylum-seekers.

¹⁷ “Afghan refugees face Jaffna’s hostility: These Sri Lankans are crazy”, Daily FT, 22 May 2019, www.ft.lk/columns/Afghan-refugees-face-Jaffna-s-hostility--These-Sri-Lankans-are-crazy/4-678583

¹⁸ Interview 15, civil society activist John, * male, Negombo Police Station, 24 May 2019

Researchers further conducted **one** interview with a Sri Lankan civil society activist who worked closely with the refugees from before the attacks, and was closely involved in their relocation since the Easter Sunday attacks. Researchers also conducted **one** phone interview with an Iranian who told refugees that she was a refugee and lived with her family in rented accommodation even after the Easter Sunday attacks and subsequent unrest in Negombo.

The testimonies received from interviewees were corroborated through media reportage of the events that unfolded in the days and weeks that followed after the Easter Sunday attacks. The Government of Sri Lanka was afforded a right of reply through letters sent on 3 October 2019. A letter providing right of reply was sent to the UNHCR on 30 September 2019. The response received from the Ministry of Foreign Affairs of Sri Lanka is annexed to this report as Annex 1.

Since the research was conducted separately by Amnesty International researchers and a MRG commissioned researcher, there remains a risk of duplication of testimony.

Additional research commissioned by MRG was conducted by a Colombo-based researcher. Information was gathered through participation in meetings of activist groups and organizations involved in responding to the crisis, as well as with refugees and asylum-seekers. A total of **19** interviews were also conducted with those affected by the crisis. These meetings and interviews took place in Negombo and Colombo, and involved visits to one community centre 40km from Negombo, and the Negombo Police Station shelter. The approach adopted to secure interviews varied, but was guided by the overall principle of capturing a wide representation of experiences, reflecting a variety of nationalities, religions, ethnicities, and genders (all self-identifying as male or female).

At the Negombo Police Station, MRG's researcher conducted **five** interviews, including with **four** Pakistani refugees and asylum-seekers (three female, one male) and **one** from Afghanistan (male).

At one of the community centres, the researcher engaged in **three** FGDs, involving a total of approximately **30** people from Pakistan. Two of these discussions involved primarily adult men, as well as some youths, while one involved mostly women in addition to youths. The participants in the discussions were selected through random sampling. During these discussions, **10** people (five men, five women) spoke at length with the researcher.

Finally, **four** interviews were conducted in Colombo, where participants were identified through snowball sampling. This included interviews with four refugees and asylum-seekers, all of whom were men, from Afghanistan.

Relevant organizations participating in the wider meetings the researcher attended included the UNHCR, as well as organisations such as MuslimAid, ZOA International, Amnesty International, the National Christian Evangelical Alliance of Sri Lanka, and the Refugee Advocacy Group.

For security reasons, all names of interviewees or those involved in cases documented in this briefing have been anonymized, indicated by an asterisk.

4. THE SITUATION BEFORE THE 21 APRIL ATTACKS

Before the attacks, the majority of the refugees and asylum-seekers who spoke to Amnesty International and MRG confirmed that they did not experience violence on the scale they saw after the attacks. They did, however have some restrictions on their human rights. Since laws and policies governing the right to work for foreigners in Sri Lanka do not permit them to work,¹⁹ many of the refugees lived on money sent to them by relatives in their home countries, on their savings, or on an allowance provided by UNHCR to those granted refugee status. Some of them undertook courses in skills such as cooking, offered by a local NGO in Negombo. Another asylum-seeker said,

“We used to stay in hostels in Negombo, then we lived in a rented house as a family together. We used to be fine there. My husband used to do graphic design work for flex boards. He used to make LKR 15,000 to 20,000 (US\$ 83 to 111). But he and his brothers are not able to work here properly. My brother in law used to work for a Muslim foreign exchange dealer, but had to leave. His boss said that he could get deported.”²⁰

Those who suffered violent displacement in Negombo following the April attacks had also integrated into society to some extent. One asylum-seeker, James* said that his children had received scholarships to a private school in Kandy for some years.²¹ He describes how he worked with children with disabilities while his son volunteered to help the elderly in a sister organization. He further says that when they moved to Negombo, a predominantly Catholic area in Sri Lanka, “We felt at home. We used to go fishing”.²² Khola,* an Ahmadi asylum seeker from Pakistan, shared the positive relationship she and her family had with their landlord downstairs, noting that her family would bring them food on Eid, and their landlord would do the same at Christmas. Another refugee, Ehsan,* described living the same life as Sri Lankans, with freedom of movement.²³

The Iranian family who Amnesty International spoke to said that initially they had been detained at the Immigration Detention Facility in Mirihana, Nugegoda, close to Colombo city. They described the conditions in the prison as being poor, and they were detained in the facility for five months. They said they had waited since early 2018 for resettlement in a western country but have not had any news for the last seven months when they spoke to researchers in May 2019.²⁴

¹⁹ Only those with a valid (work-visa) residency visa are permitted to undertake business or employment in Sri Lanka. The laws governing entry into Sri Lanka are in the Immigrants and Emigrants Act No. 20 of 1948 as amended and per regulations made thereunder. This information is listed on the official webpage of the Department of Immigration and Emigration of Sri Lanka. Available at http://www.immigration.gov.lk/web/index.php?option=com_content&view=article&id=151&Itemid=196&lang=en

²⁰ Interview 2, Azra,* Shi'a Pakistani Appellant Asylum Seeker, female, Negombo Police Station, 7 May 2019

²¹ Interview 3, James,* Roman Catholic Pakistani Asylum Seeker, male, Negombo Police Station, 7 May 2019

²² Interview 3, James

²³ Interview 5, Ehsan,* Shi'a Hazara from Afghanistan, male, Negombo Police Station 7 May 2019

²⁴ Interview 4, Mihnaz,* Iranian refugee, Negombo, female, 27 May 2019

Hamid,* a refugee from Afghanistan described how, before the attacks, life in Sri Lanka did not present many challenges except for the financial constraints.²⁵ Others had similar experiences, where they felt free.²⁶ One refugee, Fazal* from Afghanistan, who remained in his home and did not move to a shelter, said, “We never feared...people, we were not judged by our religion and country and we were never questioned for our status and whereabouts. It is very unfortunate that things have changed now”.²⁷

Similarly, prior to the attacks on 21 April, Pakistani Ahmadiis lived in Sri Lanka relatively freely without being subjected to the harassment and everyday bigotry that was a part of their lives in Pakistan. For the first time, they could freely express their religious identity and take part in community activities.²⁸ Indeed, for many refugees and asylum-seekers life in Sri Lanka, while presenting challenges such as lack of formal documentation, offered improved conditions from their countries of origin, where they fled persecution.

However, the aftermath of the 21 April bombings have significantly altered these circumstances. Interviewees at the two community centres said that on 22 April 2019, mobs²⁹ of 150 to 450³⁰ people visited various neighbourhoods in Negombo. Displaced groups of Ahmadiis³¹ reported damage to property and personal belongings and of being manhandled (pushed and shoved). A few individuals threatened refugees, asylum-seekers and even their landlords verbally, and several carried batons and knives. Others threw stones at houses rented by refugees and asylum-seekers. A number of refugees and asylum-seekers were rescued by the police forces. Some people were warned by these individuals, to leave Sri Lanka, and not just their residences.



Fazal from Afghanistan, who remained in his home and did not move to a shelter, said, “We never feared...people, we were not judged by our religion and country and we were never questioned for our status and whereabouts. It is very unfortunate that things have changed now”.*
Photo location: Negombo Police Station, Negombo, Sri Lanka

²⁵ Interview 6, Hamid,* Shi'a Hazara from Afghanistan, male, Negombo Police Station, 7 May 2019

²⁶ Interview 7, Gulam,* Shi'a Hazara from Afghanistan, female, Negombo Police Station, 7 May 2019

²⁷ Interview 12, Fazal,* Shi'a Hazara from Afghanistan, male, Negombo at his rented home, 7 May 2019

²⁸ FGDs with Ahmadi Asylum-seekers and Refugees, male and female, community centre, 7 and 9 May 2019

²⁹ “Cardinal reaches out to Muslims after Sunday violence in Negombo”, Daily FT, 10 May 2019, www.ft.lk/columns/Cardinal-reaches-out-to-Muslims-after-Sunday-violence-in-Negombo/4-677893; “Sri Lanka Muslims, refugees fear backlash from Easter attack”, Associated Press, 25 April 2019, <https://apnews.com/25b499d4785b455f9775ab46fb4f568>

³⁰ Figures quoted by refugees and asylum-seekers, both male and female, during in-depth interviews and FGDs on 7 May and 9 May 2019 by Amnesty International

³¹ Interviews and FGDs, Ahmadi Refugees and Asylum-Seekers, male and female, community centres, 7 and 8 May, 2019

5. FEARING FOR THEIR LIVES

Most refugees and asylum-seekers received the first news of violence from friends or neighbours. One refugee, Farhan,* described how, on the morning of 21 April, he received a phone call from a friend who informed him about the attacks. He stayed at home that day, fearful of a backlash. Two days later, a group of four or five young men came to the rented accommodation he shared with a group of other refugees and asylum-seekers. He said,

“They told us to leave. They hit us. Our landlord stopped the guys. He told them to let us go. They were shouting at us in Sinhalese, telling us to leave the country”.³²

Farhan then called other refugees in the area, who said they were fleeing to the police station. He then left the house with whatever he could carry, and took a taxi to the Negombo police station where he also sought refuge.

Sunita,* a Pakistani Christian asylum-seeker, similarly recounted that on 23 April a group of men on motorbikes carrying sticks and rods appeared outside her family’s rented home in Negombo. Previously warned of their presence by neighbours, and concerned that the male members of their family would be attacked, Sunita and her mother answered the door while the others hid in various rooms of the home. The men at the door demanded that Sunita and her family leave their home immediately, warning they would be killed if the entire family was not evacuated within half an hour. Owing to security concerns, their landlords encouraged Sunita and her family to evacuate the home. When interviewed, Sunita and her family were sheltered in Negombo police station, with the majority of their belongings left behind.

Another asylum-seeker, Shabana,* said that a group of 10 to 12 young men came to her rented family home in Negombo at around midday on 22 April. She said that they had come in three-wheelers, threatened the neighbours and told her family to get out of the house in one hour. The family had then called their landlord. “He came and saved us”, she said.³³ She also told Amnesty International that the landlord had arranged for a three-wheeler to take them to Negombo Police Station, where other refugees were also going. While she said they did not carry any weapons, nor did they assault her or her family, she said they went through their belongings including clothes and shouted at them to leave.

Others were able to initially stay in their homes, but remained fearful. Nuri* and his family are Hazara Christians from Afghanistan who had been living in Sri Lanka for over five years when on 23 April police searched their home in Colombo. Upon providing the police with their documents, Nuri was informed that they were invalid and proof of a visa would be required. Concerned for their security, Nuri’s landlord asked him and his family to leave their home, but was subsequently encouraged by their pastor to allow the family to remain. Nevertheless, this has led to a heightened sense of insecurity for Nuri and his family.

In a similar situation, the landlord of one refugee family brought them to the police station, explaining the pressure he was under from other individuals to evict his Muslim tenants.³⁴ This experience was shared by some other refugees, with one landlord expressing fears that the crowds would attack his house if the

³² Interview 1, Farhan,* Kashmiri Pakistani Asylum Seeker, Negombo Police Station, 7 May 2019

³³ Interview 2, Shabana,* Shi’a Pakistani Appellant Asylum Seeker, Negombo Police Station, 7 May 2019

³⁴ Interview 5, Ehsan

refugees remained there.³⁵ Another refugee said that their landlord had protected them for some days but, eventually, advised that they should go to the police station for their own safety. They left with what they were wearing, leaving behind their belongings.³⁶

Asylum-seekers and refugees were also threatened on the streets in the days following the 21 April attacks. James,* a Roman Catholic asylum-seeker, said that a mob of about 50 to 60 young men, some of whom had knives and sticks, were on the streets when he left his home to buy a phone card on the morning of 23 April. He said, “The shopkeeper told me to leave from the back. My family was at home. I ran to my sister’s home”.³⁷ He describes how thereafter, some men had threatened their landlord, and although the landlord argued with the men that the asylum seeker and his family were Catholics, the men insisted that they must leave within one hour. They had said “Whatever you are, you are Pakistani”. James and his family left for the police station with bags that they could carry. He said, “It was the only place that could protect us”.³⁸ This reflects a broader sentiment following the attacks which presented nationals of countries such as Afghanistan and Pakistan as a threat – despite many of those targeted facing persecution in these countries themselves. In the words of Saira,* a young Ahmadi woman from Pakistan, “We don’t understand why this has happened to us. In Pakistan we are not considered Muslim- here, we were threatened because we are Muslim.”³⁹

Mihnaz,* an Iranian woman who continued to live with her family in rented accommodation in Negombo, also said that they were attacked on the street while they were shopping for necessities, four days after the attacks on 25 April 2019.⁴⁰ She described to Amnesty International how they were attacked with sticks and stones and only managed to escape on their bikes. The helmets they wore had been damaged.⁴¹ Amnesty International has not been able to corroborate these claims since the interview was conducted over the phone for the family’s own safety; however, their claims are consistent with testimonies from other refugees and asylum-seekers who were similarly targeted. At the time the interviews were carried out, visiting the refugees in their home would have attracted the attention of locals, and may have precipitated attacks by local mobs.

Some of the refugees had trouble locating a taxi that would take them to the police station and to safety. One asylum-seeker said, “There were no places to go, nowhere to run, no rickshaws to take us. Finally, we found a rickshaw.”⁴²

Mihnaz said they were virtually imprisoned in their home,

“If the Iranians were not at the Police Station it was because we were imprisoned in our house. The door of the house was chained, and we were not moving out. We were not allowed to come out. The landlord created this situation for us [for our protection]. We still live under the same situation here. The door will be chained around 4pm and we don’t move out. We are afraid”.⁴³

Asef,* an Afghan refugee who remained in his home, also described the fragility of their situation and their fear of stepping outside even to procure essentials.⁴⁴ He said, “We constantly live in the fear of being identified and attacked.”⁴⁵ Another refugee, Javed,* who also remained in his rented home, said that the reason he and his family were safe is because they are afraid to leave their home. When his six-month-old baby required a vaccine, he sent the child with a Sri Lankan neighbor, since they feared for their lives if they were identified and attacked.⁴⁶

Mehreen,* an Ahmadi refugee who lives in Sri Lanka with her six children, told researchers,⁴⁷

“On Monday morning, at about 10 am, a group of 30 to 40 young men broke our windows and doors. I heard noises outside my home, opened the window and saw the mob. They asked me to step outside. I was already sick and then started crying. My children hid under the bed, we thought our lives would be taken that day and no one would save us. Eventually, our landlord ...spoke to

³⁵ Interview 8, Fahad, Shi’a Hazara from Afghanistan, male, Negombo Police Station, 7 May 2019

³⁶ Interview 7, Ghulam

³⁷ Interview 3, James

³⁸ Interview 3, James

³⁹ MRG interview with Saira,* Pakistani Ahmadi woman, Community Centre, 10 May 2019.

⁴⁰ Interview 4, Mihnaz

⁴¹ Interview 4, Mihnaz

⁴² Interview 3, James

⁴³ Interview 4, Mihnaz

⁴⁴ Interview 11, Asef,* Shi’a Hazara Afghan, male, Negombo Police Station, 7 May 2019

⁴⁵ Interview 11, Asef

⁴⁶ Interview 12, Javed,* Shi’a Hazara Afghan, male, Negombo, 7 May 2019

⁴⁷ Interview, Mehreen,* Ahmadi refugee from Pakistan, female, community centre, 7 May 2019 – exact location withheld due to security reasons

the mob on our behalf to calm them down. He explained to them that the property they damaged was his and not ours. We even showed our refugee papers to the mob, but to no avail. They wanted us to leave. Our landlord called the police. They escorted us to the police station and we then left for our temporary shelter.”

Ikram,* an Ahmadi asylum-seeker, who lived in the suburbs of Negombo with his three children and wife, also said he was attacked. His children were traumatized by the angry mob they had witnessed on that day. He had been advised to switch off lights, lock his doors and sit inside, but when the mob came, he did not recognize any of them– they were not from his neighbourhood. He told researchers,

“On 23 April, three or four men broke the lock on my house and forcibly entered my flat on the upper floor. They made us come downstairs on the road. They then entered our neighbours’ house - they are another Ahmadi family - and broke their dishes. They also went into the house of a Pakistani Sunni family and even hit their men. We called the police and the owner helped us get the cab to the police station. The mob did not include anyone from our neighbourhood, and afterwards we were warned that a bigger group would come to attack us. So we had to leave.”⁴⁸

Residents in neighbourhoods and villages where Pakistani refugees and asylum-seekers lived knew of their presence and addresses. In some cases, mobs comprising of outsiders asked the locals where the “Pakistanis” lived.⁴⁹ One woman, Nasreen,* told researchers that her lower back was hit when she tried to stop vigilantes from forcibly entering her home.⁵⁰

Even those Ahmadi refugees and asylum-seekers who had not been targeted directly left their residences because of messages and information related to increasing hostility on community WhatsApp groups.⁵¹ Eventually, the Ahmadi community’s volunteer coordinators and local civil society activists advised and encouraged other Ahmadis to register at the police stations and move to community centres for protection. By 26 April, Ahmadis who were still in their homes left, carrying few belongings.

An attack on one of the community centres where displaced Ahmadi Muslims were staying on 25 April added another layer of vulnerability to the circumstances of refugees and asylum seekers.⁵² Refugees and asylum-seekers told researchers that locals were forced to join the mob which had come to their community centre. They explained that passers-by in their private vehicles, three-wheelers or on buses were asked to stop and gather outside the community centre for a possible attack.⁵³ It is unclear how many individuals in the group actually participated in the alleged violence, threats and intimidation. The attack created further trauma for the refugees and asylum-seekers, and revived memories of the violence which had forced them to flee from Pakistan. Some of the people who gathered at the community centre threw stones inside the boundary of the building, hitting the windows and doors of the two-floor structure where women and children were housed.

Naila,* an Ahmadi refugee woman⁵⁴ – who has been in Sri Lanka with her mother and husband since leaving Pakistan in 2015, and whose daughter, now three, was born in Sri Lanka – was inside the community centre during the attack. In an interview with Amnesty International, she said,

“You cannot imagine how we spent those two to three hours. My husband at that time was in the other community centre, but the brothers, fathers and husbands of other women here were outside and they told us before the mob reaches us they will protect us [from any violence]... Only God saved us that day.”

The displaced Ahmadis claimed that a mob visited on the sixth day after the attack, spoke with the officers and then did not visit again. However, the fear of another attack still stays with them.

⁴⁸ Interview, Ikram,* Ahmadi refugees and asylum-seekers, male, community centre, 7 May 2019

⁴⁹ FGD with Ahmadi refugees and asylum-seekers, male, community centre, 7 May 2019

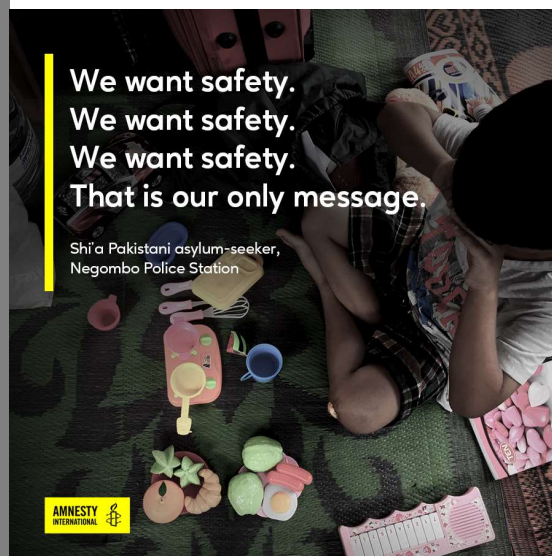
⁵⁰ FGD, Ahmadi refugees and asylum-seekers, female, community centre, 7 May 2019

⁵¹ FGDs, Ahmadi Asylum-Seekers and Refugees, female and male, community centres, 7 May and 9 May 2019

⁵² FGD, Ahmadi Asylum-Seekers and Refugees, male, community centre, 7 May 2019

⁵³ FGD, Ahmadi Asylum-Seekers and Refugees, male, community centre, 7 May 2019

⁵⁴ Interview, Naila,* Ahmadi refugee, community centre, 7 May 2019



Ikram, an Ahmadi asylum-seeker, who lived in the suburbs of Negombo with his three children and wife, also said he was attacked. His children were traumatized by the angry mob they had witnessed on that day. He had been advised to switch off lights, lock his doors and sit inside, but when the mob came, he did not recognize any of them– they were not from his neighbourhood.*

Photo location: Negombo Police Station, Negombo, Sri Lanka

5.1 STATE RESPONSE TO THE CRISIS

Refugees and asylum-seekers were thus forced to leave their homes and seek shelter in crowded community centres and at a police station. Despite the overcrowding, many of the refugees mentioned that they felt safe at the police station, given the lack of safety in their own homes and on the streets. The Negombo police officers under the command of its HQI, Frederick U.K. Wootler, generously opened their work spaces to the refugees, and endured the difficulties that inevitably result in sharing a space meant only for a small number of police officers with over 150 refugees, including children. The toilet facilities were a particular challenge, with just three toilets available to be shared by both the police officers and the refugees and asylum-seekers. This was amid the tensions and anxieties growing within the area of Negombo following the 21 April attacks, which killed more than 100 people in Negombo itself. The service of these officers must be recognized in this context. One asylum seeker, while describing the fear, hostility and indignity of being bussed (for their safety) from place to place by the UNHCR and government officials, described the safety provided by the police, “The police co-operated. They stayed with us. There were police in the bus with us.”⁵⁵

Similarly, in the community centre in Negombo, and in another located 40km from Negombo, the staff accommodated a large influx of refugees, and provided safety and shelter at the most crucial time. Their services must be recognized, with Sri Lankan locals also coming forward to provide safety and support to the refugees during this dark period.

The Government of Sri Lanka, in the aftermath of the April attacks, and in the context of a heavy backlash against refugees and asylum-seekers in Negombo, did co-operate with the UNHCR, to attempt to transport refugees in buses to safe locations. Police protection was granted to these vehicles.⁵⁶ However, on at least two occasions documented by Amnesty International and MRG, and by local civil society activists the busloads of refugees had to return to Negombo from alternative temporary shelters, as a result of protests by

⁵⁵ Interview 3, James

⁵⁶ Ruki Fernando, “Refugee crisis in Sri Lanka after the Easter Sunday bombings”, Groundviews, 4 May 2019, <https://groundviews.org/2019/05/04/refugee-crisis-in-sri-lanka-after-the-east-sunday-bombings/>; Amnesty International, *Sri Lanka: Refugees fear for their safety amid desperate conditions* (News story, 16 May 2019), <https://www.amnesty.org/en/latest/news/2019/05/sri-lanka-refugees-fear-for-their-safety-amid-desperate-conditions/>

local residents.⁵⁷ It appears that moving the refugees back to the shelters at the Negombo Police Station and the two community centres was necessary and proportionate at the time in order to guarantee the safety of the refugees in the face of protests against their being housed in these temporary shelters.

As this report finds however, the relocation/eviction/movement of over 1,000 people due to fear and violence by the community against them cannot be dismissed without appropriate investigation by the authorities in accordance with international human rights law. The treatment of refugees and asylum-seekers, and the impact on their safety, security and freedom of movement, infringed a number of human rights guaranteed to them by not only international human rights law, but also the domestic human rights legal frameworks.

It is noted that none of the interviewees mentioned making a formal complaint to the police. Despite the lack of such formal complaints, the Sri Lankan police had an obligation under both international human rights law and domestic criminal law to initiate investigations on their own motion into the events that led to the eviction under duress of over 1,000 people.⁵⁸ Over 150 people resided in the garage of the Negombo Police Station for close to one month, fearing violence and threats if they were to return to their homes. Accordingly, there can be absolutely no question that the police were well aware of the situation, and it would be absurd for them to suggest otherwise. Amnesty International and MRG find that there was a lapse in guaranteeing the right to safety and security by the Sri Lankan police. They failed to appropriately investigate the attacks that led to the exodus of over 1,000 people; they failed to take appropriate measures to record facts and evidence; and they failed to apprehend the offenders. These failings gave rise to a breach of the right to security under the International Covenant on Civil and Political Rights (ICCPR).

In terms of the Criminal Procedure Code of Sri Lanka of 1979 (section 109), even if the police had not received a formal complaint, but had reason to suspect “*the commission of a cognizable offence or to apprehend a breach of the peace*”, the police must proceed in terms of the law to investigate the facts and circumstances of the case and take necessary measures to apprehend the offender. This is after either submitting a report of the case to a magistrate or, in the case of an officer in charge of a police station, to his immediate supervisor. In terms of Article 12 of the Constitution of Sri Lanka, all persons are equal before the law and are entitled to the equal protection of the law; this is a protection which extends beyond citizens to all persons.

In terms of Article 2 of the ICCPR, read with Article 6 (Right to life) and Article 9 (Right to liberty and security of the person), the police have a general duty to protect the life and security of a person. This includes the duty to investigate acts of violence or persistent threats, and to take appropriate action. According to General Comment 31 (GC 31),⁵⁹ on Article 2 of the ICCPR, the State has an obligation to ensure effective and accessible remedies to vindicate the rights guaranteed by the Covenant. According to GC 31,

“Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. National human rights institutions, endowed with appropriate powers, can contribute to this end. A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”⁶⁰

The obligation to investigate extends to private persons and entities. According to GC 31,

“There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties’ permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.”⁶¹

Accordingly, just like the failure to investigate, the failure to bring to justice perpetrators of violations of the Covenant could give rise to a breach of the Covenant in and of itself.⁶² In this event there have been no

⁵⁷ R. Hoole, “The bombings, refugees & emergency regulations: The dangers of a military dictatorship”, Colombo Telegraph, 4 May 2019, <https://www.colombotelegraph.com/index.php/the-bombings-refugees-emergency-regulations-the-dangers-of-a-military-dictatorship/>; “Sri Lanka: Refugees targeted after Easter Sunday attacks”, Open Access Government, 16 May 2019, <https://www.openaccessgovernment.org/sri-lanka-refugees/65170/>, citing Amnesty International. Confirmed by interview with civil society activist, Negombo Police Station, 24 May 2019.

⁵⁸ The doctrine of *suo moto* allows, and requires, police to investigate crime of their own motion, that is without a formal complaint.

⁵⁹ Human Rights Committee, Eightieth Session, General Comment No. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant, adopted on 29 March 2004 (2,187th meeting), UN Doc. CCPR/C/21/Rev.1/Add. 1326, May 2004, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsiYoiCfIMKolRv2FVaVzRkMiTniRO%2Bfud3cPVrcM9YR0iW6Txaxgp3f9kUFpWq%2FhW%2FTpKi2tPhZsbEJw%2FGeZRASjdFuuJQRnbJEaUhby31WiQPI2mLFDe6ZSwMMvmQGVHA%3D%3D>

⁶⁰ General Comment 31, para. 15.

⁶¹ General Comment 31, para. 8.

⁶² General Comment 31, para. 18.

investigations, and perpetrators have not been brought to justice. The right to security of persons guaranteed by Article 9 of the ICCPR extends to threats to life or bodily integrity,

“The right to personal security also obliges States parties to take appropriate measures in response to death threats against persons in the public sphere, and **more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors.** [our emphasis]

“States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury. For example, States parties must respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists, retaliation against witnesses, violence against women, including domestic violence, the hazing of conscripts in the armed forces, violence against children, violence against persons on the basis of their sexual orientation or gender identity, and violence against persons with disabilities.”⁶³

The reasons for the refugees and asylum-seekers not formally reporting the incidents are not known. Given the vulnerability of the refugees and asylum-seekers at the time they were interviewed by researchers, they were not directly asked why they did not file a complaint with the police. In an FGD, refugees and asylum-seekers said,

“I have a good relationship with my Sri Lankan neighbours. I have many Sri Lankan friends in the area because I have been here for six years. I was not attacked by the mob but the problems I saw were that policemen and some men in the army uniforms could not control the mob. They never tried to stop them or said a word to them. Yes, they shifted people from the sites of mob attacks, but never warned them [the mob]. They were never the shield for us [Ahmadis who were attacked]. They never protected us.”⁶⁴

Another said,

“My [house] owner called me at 10am and told me that the situation would get worse in the evening. That I should move to a safe place. I called the police and gave them my address; no one came. Then I got a rickshaw but there were young men standing outside my house who sent it back. They said to me, they had no issue, if I wanted to leave, but that a rickshaw was not allowed to take me anywhere. I got back inside. I was very worried because I had a family with me. Those young men could also be rickshaw drivers themselves. They were not our neighbours. I left when the police came by 4pm and got me a rickshaw.”⁶⁵

It is clear though that the police had ample information on the threats of violence faced by refugees and asylum-seekers. Saeed* said,

“Landlords of many people told them that they only had a few hours before a huge mob came to attack them. My landlord offered to drop us at a location we considered safe for us. So we went to the community centre with them. Once there, we were asked to go to the police station for registration, so we did and then returned to the community centre.”⁶⁶

On the other hand, refugees and asylum-seekers had not thought of complaining to the police at the time. Nighat* said,

“No we did not file a complaint; we did not think of it. At the time of the attack, our landlord called the police, and they escorted us to the police station.”⁶⁷

Corroborating this, a civil society activist who was interviewed⁶⁸ stated that at that time, in the panic of ensuring their safety and security, none of the refugees considered filing formal complaints. In addition, although he had worked closely with the refugees from the first days of the violence, he had not suggested making complaints. If a police inquiry was held and the perpetrators, and possibly witnesses such as landlords, were brought to the police station where the victims were seeking shelter, the landlords and the refugees and asylum-seekers themselves would feel vulnerable to repercussions and attacks from the

⁶³ Human Rights Committee, General Comment 35, Article 9 (Liberty and security of person), UN Doc. CCPR/C/GC/35, 16 December 2014, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsrdB0H1I5979OVGGB%2bWPAXjdG1mwFFfP YGIINfb%2f6T%2fqtwtc77%2fKU9JkoeDcTWWPIpCoePGBCMsRmFtoMu58pgnmzjiviyRGkPQekcPKtaaTG>

⁶⁴ Fawad,* FGD with Ahmadi asylum-seekers and refugees, male, community centre, 7 and 9 May 2019.

⁶⁵ Atif,* FGD with Ahmadi asylum-seekers and refugees, male, community centre, 7 and 9 May 2019.

⁶⁶ Interview, Saeed,* Ahmadi refugee from Pakistan, female, community centre, phone interview on 5 October 2019.

⁶⁷ Interview, Nighat,* Ahmadi refugee from Pakistan, female, community centre, phone interview on 5 October 2019.

⁶⁸ Interview 15, John, phone interview on 2 October 2019.

perpetrators. The civil society activist himself was targeted by a group for his role in helping refugees. He said that he did not make a police complaint for the same reason.

“I LOVE TO STUDY BUT FOR THE LAST YEAR I COULD NOT”



Photo location: Negombo Police Station, May 2019

Shahid* has trained to be a cyber security expert. His dream was to work for Pakistan's cyber security industry. He speaks of his lost dreams and says “I don't have a financial base, I don't have anything, my career is half finished. I love to study but for the last year I could not”. Shahid has a five-year-old brother and 12-year-old sister. When Amnesty International visited the family, his brother was playing with a few toys, oblivious to the precarious situation in which they have been placed by fate and circumstances.

Shahid and his family lived a relatively privileged life, had travelled widely, and his father had travelled the world as a businessman. They fled Pakistan when threats were made against his father, and an attempt was made to kill his mother and sister, and then to abduct him. “We left because of a life threat in Pakistan. If we don't have a life threat why would we leave?”

After the 21 April attacks he described how a group of men came to their home armed with knives and sticks. He said that his family had switched off lights and fans and had been very quiet to give the impression that the house was empty. Nevertheless, the mob attacked the house. “They came with 25 to 30 people, even they tried to kill us, they took my phone also. They said you have only one hour to leave your home or we will kill you.”⁶⁹ He described how they kicked his father and himself, and pushed his mother. Even at the hospital where he went with his father on 6 May, he said, “the doctors also treat us badly and said ‘you are Pakistani? Then go away’”.

When they returned to their rented home on 19 May to collect their belongings, the landlord had given their home to another tenant and claimed that he had thrown away their appliances. All they had left were some clothes that they had transferred to another family's home just before they fled. Speaking of the plans to move them to a camp where they will have limited or no access to the outside world, Shahid was not optimistic. “If we are moved to a camp where only the UNHCR is allowed in, then we will get sick, it will be like a detention centre”. He has no hope if they are deported back to Pakistan

Since then, Shahid and his family moved to the camp in the north of Sri Lanka, where they say the conditions are better than those at the police station, but they remained fearful of their future. They have now left the camp as well.

Shahid is 17.

⁶⁹ Interview 14, Shahid, * Sunni from Pakistan, male, Negombo Police Station, 7 May 2019 and 24 May 2019

5.2 DISCRIMINATION AFTER THE ATTACKS

Many of the refugees and asylum-seekers that Amnesty International and MRG spoke to shared their experiences of discrimination since the 21 April attacks. One asylum-seeker said, “We can’t live here. From a rickshaw driver to a doctor, we’re not treated as human beings. They tell us to leave.”⁷⁰

Another asylum-seeker shared how she and her children are called out to at the market-place, where people say, “Hey you, go back”.⁷¹ She is in Sri Lanka with two children, a two-year-old and a five-year-old.

As an Afghan refugee activist described, “Now the people of Sri Lanka see refugees as a threat, no longer as a guest... they think we will harm them. These people treat us like this because they don’t know what a refugee is.”

Divisive rhetoric on the part of state actors in the period following the 21 April attacks has also contributed to hostility towards refugees in Sri Lanka.⁷²

The attacks described by the refugees have been corroborated by other human rights organizations and by media reports. Human Rights Watch, for example, raised concerns on the safety of the refugees as well as other minorities in Sri Lanka days after the 21 April bombings took place.⁷³ On 30 May, a month after the attacks, the UNHCR said of over 1000 refugees who fled that “they were driven out of their rented homes”.⁷⁴ Media reports have similarly documented the manner in which the refugees were driven from their homes in the days and weeks following the 21 April attacks.⁷⁵



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Photo location: Negombo Police Station, Negombo, Sri Lanka

⁷⁰ Interview 1, Farhan

⁷¹ Interview 2, Azra

⁷² “Sri Lanka wants repatriation of refugees in aftermath of Easter bombings”, Colombo Page, 8 May 2019, http://www.colombopage.com/NEW_LPC/NewsFiles19/May08_1557289593.php

⁷³ Human Rights Watch, *Sri Lanka: Refugees, threatened, attacked*, 29 April 2019, <https://www.hrw.org/news/2019/04/29/sri-lanka-refugees-threatened-attacked>

⁷⁴ UNHCR, *Fear haunts refugees in Sri Lanka in wake of attacks*, 30 May 2019, <https://www.unhcr.org/news/latest/2019/5/5cee8eb24/fear-haunts-refugees-sri-lanka-wake-attacks.html>

⁷⁵ “Refugees, asylum-seekers harassed in Sri Lanka after Easter Sunday blasts”, *The Hindu*, 28 April 2019, <https://www.thehindu.com/news/international/refugees-asylum-seekers-harassed-in-sri-lanka-after-easter-sunday-blasts/article26972474.ece>

6. STATE RESPONSIBILITY

The Sri Lankan government has a clear responsibility to protect refugees and asylum-seekers in its territory. Although Sri Lanka has not ratified the Refugee Convention or the Optional Protocol, the international human rights law framework nevertheless imposes several obligations on the Sri Lankan government. Sri Lanka ratified the International Convention on the Elimination of All forms of Racial Discrimination (CERD, 1969) in 1982, the International Covenant on Civil and Political Rights (ICCPR, 1976) in 1980, the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1976) in 1980, the Convention on the Elimination of All forms of Discrimination against Women (CEDAW, 1981) in 1981, and the Convention on the Rights of the Child (CRC, 1990) in 1991, among 14 major international human rights treaties and optional protocols to such treaties that it has ratified.

The protections guaranteed by the ICCPR, for example, apply almost universally to all persons within the jurisdiction of a state. These include the right to liberty, security and equality. In terms of Article 2 of the ICCPR, “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Similarly, the right to equality (Article 3), the right to life (Article 6), and the right to liberty and security of person (Article 9) are all protected by the ICCPR. The right to be free from “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law” in terms of Article 20(2). In terms of Article 2 and 26 that cover the right to equality and non-discrimination, the right to equality before the law demands that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 26). Furthermore, in terms of those who were displaced following the 21 April attacks, the Government of Sri Lanka carries a further obligation to guarantee their protection.

The domestic law in Sri Lanka also recognizes these guarantees. The fundamental rights chapter of the Constitution of Sri Lanka, guarantees the right to equality (Article 12), where in terms of Article 12(1), “All persons are equal before the law and are entitled to the equal protection of the law” and Article 12(2) “No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds”. Article 13 guarantees the right to liberty and security, the freedom from arbitrary detention and no person can be arrested “except according to procedure established by law”. The Constitution of Sri Lanka also protects the right to the freedom of thought, conscience and religion (Article 10), and the right to be free from torture (Article 11) for all persons – not just its citizens – that fall within the territorial jurisdiction of Sri Lanka.

Despite these guarantees and the duty to respect, protect and fulfil human rights, including for refugees and asylum-seekers in its territory, many of whom have yet to return, there does not seem to have been any investigations into these incidents. There has been no evidence of criminal investigation of, or charges raised against, those people who have used violence against refugees and asylum-seekers or their property.

7. CONCLUSIONS

As discussed above, the Government of Sri Lanka did co-operate with the UNHCR in transporting refugees to safer locations – but only to bring them back to crowded shelters in Negombo when local residents in other locations launched protests. In addition, the Negombo police station became a temporary refuge for close to 160 refugees and asylum-seekers for nearly 30 days. The remaining refugees and asylum-seekers remained at a community centres in Negombo and another located 40km from Negombo. The support of the law enforcement authorities to permit refugees to stay in the garage of the Negombo Police Station as a temporary measure for an extended period of time is welcomed but more must be done to ensure the protection of refugees and asylum-seekers safety and security in the community. The fact remains that the refugees were not safe on the streets, in public places, or even in their own homes in Negombo and surrounding areas. The law enforcement agencies were unable to guarantee their safety, resulting in their relocation to crowded shelters in a police station and community centres.

The heightened public security crisis that confronted the government in the aftermath of the April bombings, must also be taken into account. However, this does not negate the responsibility of the Sri Lankan government in guaranteeing the safety, security and other human rights of refugees and asylum-seekers.

The relocation/eviction/movement of over 1,000 people due to fear and violence against them by the community cannot be dismissed without appropriate investigation by the authorities in accordance with international human rights law. The treatment of refugees and asylum-seekers, and the impact on their safety, security and freedom of movement, infringed a number of human rights guaranteed to them by not only international human rights law, but also domestic human rights legal frameworks. Some of the refugees remain unable to return to their homes, residing in a government-maintained camp in the north of Sri Lanka with the support of the UNHCR.⁷⁶ However, the safe conditions for their return to their homes in Negombo and in other locations can only be guaranteed if those who violated the law, and were responsible for violence against refugees and asylum-seekers, are held accountable by law.

In these circumstances, Amnesty International and MRG make the following recommendations:

To the Government of Sri Lanka:-

- Make a clear statement that violence against ethnic and religious minorities, particularly refugees and asylum-seekers, will not be tolerated and will be independently investigated in accordance with the law.
- Take urgent steps to guarantee the safety, dignity and human rights of all refugees and asylum-seekers within its territory including the right to adequate housing in both temporary and long-term arrangements, including protection from arbitrary or forced evictions, security of tenancy and access to remedies to protect these rights in law.
- Guarantee the rights to safety, security and freedom of movement for refugees and asylum-seekers regardless of their nationality or immigration status. Protective custody that restricts freedom of movement of refugees and asylum-seekers should be for as short a time as possible, where necessary, proportionate and in accordance with the law, and if other alternative less restrictive means are not available.

⁷⁶ Interview 15, John

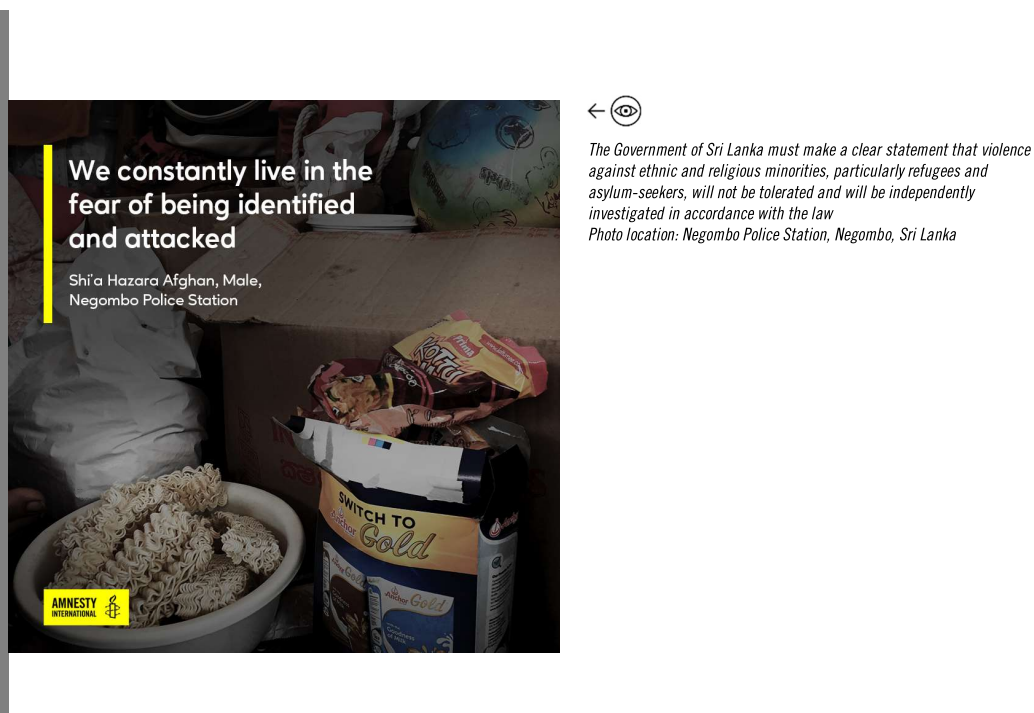
- Guarantee adequate safety and shelter, food, water and sanitation, decent living conditions and personal liberty for those refugees and asylum-seekers that remain displaced, until their relocation or resettlement;
- Ensure prompt, independent, impartial and effective investigations into violence directed towards refugees and asylum-seekers or their property. Where there is adequate evidence, perpetrators should be prosecuted and tried before a court of law, with the right to a fair trial respected.
- Accede to the Refugee Convention and the Optional Protocol to the Convention, at the earliest opportunity.
- Ensure there is adequate information and educational programmes to support the meaningful integration of refugees and asylum-seekers in the local community.
- Work with host communities to dispel myths, stigma and discrimination against refugees and asylum-seekers.

To the UNHCR:-

- Urge resettlement countries, to expedite re-settlement and to increase the number of refugees that are granted status for re-settlement.
- Carry out public information campaigns to provide accurate information about the refugees themselves, to reduce the misinformation and fear that may prevail among the general public, and create more awareness of the persecution in their home countries that refugees are fleeing.

To the international community:

- Work with the Sri Lankan government to ensure that they have adequate technical and financial resources to protect the safety and security of refugees and asylum-seekers in its own country



8. ANNEX 1

RESPONSE TO CONCERNS RAISED BY AMNESTY INTERNATIONAL SOUTH ASIA RECEIVED FROM THE MINISTRY OF FOREIGN AFFAIRS OF SRI LANKA, 10 OCTOBER 2019

“The Government of Sri Lanka continues to work in coordination with the United Nations High Commissioner for Refugees (UNHCR) at all times to address issues pertaining to asylum seekers and refugees in Sri Lanka in accordance with international norms. The GoSL accepts and adheres to the principle of ‘non-refoulement’ i.e. the practice of not forcing refugees or asylum seekers to return to a country in which they are liable to be subjected to persecution. The GoSL believes that this principle is established through customary international law. Therefore, even as a country that is not a signatory of the 1951 Refugee Convention, Sri Lanka accepts this principle without any reservations.

Following the incidents of 21 April 2019, the Government guaranteed the safety and security of the asylum seekers and refugees residing in Sri Lanka in collaboration with the UNHCR. Over 1,100 asylum-seekers and refugees were relocated to more secure venues, voluntarily, as a precautionary measure, and the Police and Army provided security to those locations. The Government, the UNHCR, and relevant non-governmental organizations provided food, health and other services to these persons. Nearly all displaced persons have now either returned to their original places of stay, or have left the country as part of third-country resettlement programmes (as of 08 October 2019, there are only 23 persons at *[name of community centre withheld for security but named in official communication from the government]*).

The Government wishes to also reiterate its commitment to further improve the situation faced by any refugee or asylum seeker in all aspects during their stay in the country. While the Government of Sri Lanka made stringent efforts to deal with the unprecedented tragedy and circumstances of Easter Sunday, the situation ensured that, despite the best efforts of the GoSL, politically motivated incidents of civil unrest occurred in localized parts of the country. We are of the view that while regrettable incidents of discrimination and stigmatization of the asylum-seekers and refugees may have occurred at the local level, the Government policy has been one of clear commitment to the safety and security of all such persons. All authorities are fully aware of the responsibility of the GoSL to these vulnerable persons. It must be stated at this juncture that the Government of Sri Lanka ensured that no harm befell any of the asylum-seekers or refugees as a result of these incidents of unrest, and that their security was given utmost importance even during this most challenging time.

Subsequent to the tragic incidents of April 2019, the Government of Sri Lanka has initiated the setting up of an inter-religious council aimed at raising awareness and solidarity, building peace and promoting reconciliation among all communities in Sri Lanka, thereby further strengthening the efforts already undertaken in this respect. Accordingly, any incidents of hate or incitement to violence are being tackled through the engagement of law, effective law enforcement as well as strengthened and informed dialogue towards building mutual understanding and accommodation of diversity.

The Government of Sri Lanka remains committed to ensuring the safety of all persons and communities in the country, and all persons residing in Sri Lanka including asylum-seekers and refugees.”

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TO ONE PERSON, IT
MATTERS TO US ALL.**

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UNSAFE AT HOME, UNSAFE ABROAD

STATE OBLIGATIONS TOWARDS REFUGEES & ASYLUM-SEEKERS IN SRI LANKA

Following the 21 April 2019 attacks in Sri Lanka, also known as the ‘Easter Sunday bombings’, targeting churches and hotels in Negombo, Colombo and Batticaloa, refugees and asylum seekers - primarily from Pakistan, Afghanistan and Iran - were displaced from Negombo (38 km from the capital Colombo). Approximately 1,063 refugees and asylum seekers left their homes and in some cases were forced due to threats of violence by individuals and groups armed with knives and sticks, to relocate from their homes to two community centres and a police station close to their original homes.

This report reveals that the relocation/eviction/movement of over 1,000 people due to fear and violence by the community against them cannot be dismissed without appropriate investigation by the authorities in accordance with international human rights law. The treatment of refugees and asylum-seekers, and the impact on their safety, security and freedom of movement, infringed a number of human rights guaranteed to them by not only international human rights law, but also the domestic human rights legal frameworks.