

Undermining UNHRC Principles: Is Resolution Infringing Sovereignty of Sri Lanka?

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United Nations System – Principle of Sovereignty

- Principle of sovereign equality of its Member States as guaranteed in **Article 2 (1) UN Charter** (*States, Sovereign Equality*).
- **Article 2 (4) and (7) UN Charter**
- Provided States have
 - supreme authority within their territory,
 - the plenitude of internal jurisdiction,
 - their immunity from other States' own jurisdiction and
 - their freedom from other States' intervention on their territory

The Normative Concept of Sovereignty

- An international law, internal sovereignty is used to mean the
 - supreme authority within a territory or the ultimate power within that territory

(Customs Regime between Germany and Austria [Advisory Opinion] [Individual Opinion of Judge Anzilotti])

- Additional conception of sovereignty is
 - absolute independence or freedom and it captures what is at stake in external sovereignty

(arbitrator Max Huber in the *Palmas Island Arbitration*).

- -

Sovereignty Rights

- Plenary territorial and personal jurisdiction within one's territorial boundaries;
- the presumption of legality of one's sovereign acts;
- constitutional and organizational autonomy; and;
- the protection of one's *domaine réservé*.

(Authority from Art. 2 UN Charter and in the 1970 Friendly Relations Declaration.)

Is Resolution infringing sovereignty of Sri Lanka?

Panel of Expert (POE) report

Validity of the Report is in question

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OISL Report Para 22 has stated that POE utilized as a another Key source of information

Commissioner report at 46th Session

Validity of the Report is in question

Validity of the Resolution is in question

Resolution 46/20 on Sri Lanka

Is Resolution infringing sovereignty of Sri Lanka? 1

- **Operative paragraph 1.**

Welcomes the oral update presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its forty-third session and the report of Office of the United Nations High Commission for Human Rights presented to the Council at its forty-sixth session;

Conclusions derived from wrong facts and procedures

Is Resolution infringing sovereignty of Sri Lanka? 1 2

- **Operative Paragraph 2**

Also welcomes the engagement between the Government of Sri Lanka and the Office of the High Commissioner, and the Special Procedures of the Human Rights Council, urges the continuation of such engagement and dialogue, and calls upon Sri Lanka to implement the recommendations made by the Office and to give due consideration to the **recommendations of the Special Procedures;**

Questionable??? Special Procedure seems like request to sign blank cheque

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraphs 4**

Stresses the importance of a **comprehensive accountability** process for all violations and abuses of human rights committed in Sri Lanka by all parties, **including those abuses by the Liberation Tigers of Tamil Eelam**, as highlighted in the comprehensive report of the Office of the High Commissioner on Sri Lanka;

LTTE Cadre rehabilitated

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraphs 5**

Notes the persistent lack of accountability of domestic mechanisms, and that the domestic commission of inquiry announced on 22 January 2021 lacks independence and that its mandate is to review reports of previous Commissions and Committees and does not include a mandate to pursue accountability for past **gross** violations of human rights, or for **serious** violations of international humanitarian law;

Prejudiced and Biased Opinion

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraph 6**

- Recognizes the importance of preserving and analysing evidence relating to violations and abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability, and decides to strengthen in this regard the capacity of the Office of the High Commissioner to collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka, to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States with competent jurisdiction;

Gross violation of Sovereignty of Sri Lanka
Daylight London and Geneva robbery

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraph 7**

Expresses serious concern at the trends emerging over the past year, which represent a clear early warning sign of a deteriorating situation of human rights in Sri Lanka, including the accelerating militarization of civilian government functions; the erosion of the independence of the judiciary and key institutions responsible for the promotion and protection of human rights; ongoing impunity and political obstruction of accountability for crimes and human rights violations in “emblematic cases”; policies that adversely affect the right to freedom of religion or belief; increased marginalization of persons belonging to Tamil and Muslim communities, surveillance and intimidation of civil society, restrictions on media freedom, and shrinking democratic space; restrictions on public memorialization of victims of war including the destruction of a memorial; arbitrary detentions; alleged torture and other cruel, inhuman degrading treatment or punishment, and sexual and gender-based violence;; and that these trends threaten to reverse the limited but important gains made in recent years, and risk the recurrence of policies and practices that gave rise to the grave violations of the past;

Interfering domestic matters Sovereignty of Sri Lanka
Daylight London and Geneva robbery

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraph 8**

Expresses further concern that the response to the coronavirus disease (COVID-19) pandemic has had an impact on freedom of religion or belief and exacerbated the prevailing marginalization of and **discrimination against the Muslim community**, and that cremations for those deceased from COVID-19 have prevented Muslims and members of other religions from practicing their own burial religious rites, and has disproportionately affected religious minorities and exacerbated distress and tensions;

Burial issue is resolved by the technical committee
Interfering domestic matters and Sovereignty of Sri Lanka
Daylight London robbery

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative paragraph 9**

Calls upon the Government of Sri Lanka to ensure the prompt, thorough and impartial investigation and, if warranted, prosecution of all alleged crimes relating to human rights violations and serious violations of international humanitarian law, including for long-standing emblematic cases;

Op Paragraph 6 ≠ Op. Paragraph 9

Is Resolution infringing sovereignty of Sri Lanka?

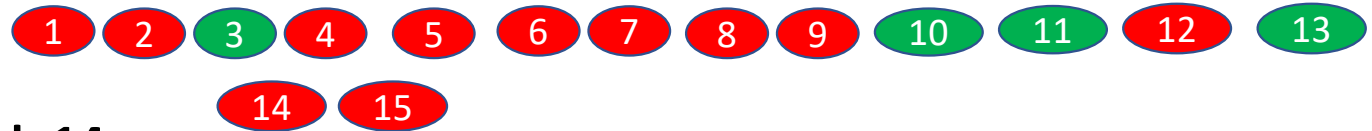


Operative Paragraph 12

Requests the Government of Sri Lanka to review the *Prevention of Terrorism Act*, and to ensure that any legislation on combating terrorism complies fully with the State's international human rights and humanitarian law obligations;

Interfering Domestic Legal System
Infringing Sovereignty of Sri Lanka
Daylight London and Genoa Robbery

Is Resolution infringing sovereignty of Sri Lanka?



Operative Paragraph 14

Encourages the Government of Sri Lanka to continue to cooperate with the special procedures of the Human Rights Council, including by responding formally to outstanding requests from them;

Operative Paragraph 15

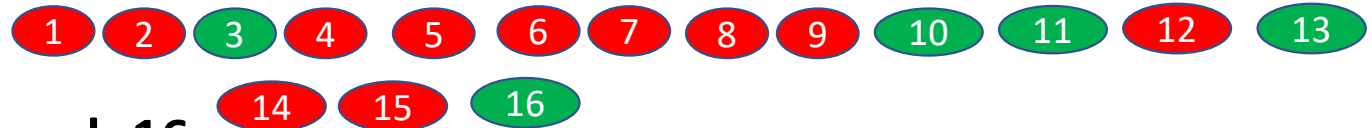
Encourages the Office of the High Commissioner and relevant special procedure mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the above-mentioned steps;

Lack of clarity what is special procedure???

Infringing Sovereignty of Sri Lanka

Daylight London and Geneva Robbery

Is Resolution infringing sovereignty of Sri Lanka?



- **Operative Paragraph 16**

- Requests the Office of the High Commissioner to enhance its monitoring and reporting on the situation of human rights in Sri Lanka, including on progress in reconciliation and accountability and to present an oral update to the Human Rights Council at its forty-eighth session as well as a written update at its **forty-ninth session** and a comprehensive report that includes further options for advancing accountability, at its fifty-first session, **both to be discussed in the context of an interactive dialogue**

Contradicts with Operative all operative paragraph discussed specifically 6 and 7,
But we welcome

Is Resolution infringing sovereignty of Sri Lanka? **Yes**

- UNHRC not a court, Tribunal or adjudicative body.
- Has no authority to enforce sanctions, give binding orders.
- Has only authority for consultative mechanisms.

UNHRC resolution 46/(20) against Sri Lanka undermine UN Charter and UNHRC principles

Is Resolution infringing sovereignty of Sri Lanka? **Yes Yes**

- UNHRC Resolution directly infringe Sovereign rights; Constitutional and Organizational Autonomy of Sri Lanka
- We request core group repeal Operative paragraphs 1,2,4,5,6,7,8,9,12,14,15 or withdraw altogether

Resolution undermines UNHRC principles

Is Resolution infringing sovereignty of Sri Lanka? **Yes Yes Yes**

**Resolution is Infringing Sovereignty
of Sri Lanka**

Must be rejected

**We request all 47 member states not
to support country specific resolutions
and Resolution against Sri Lanka**

HUMAN RIGHTS

QUESTIONS
and ANSWERS

Thank You

