

# **UNHRC Resolutions and the Involvement of External Actors over the Treatment of Minorities in Sri Lanka**

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It has become a matter of international interest that 12 years after the Civil War ended, the Government of Sri Lanka (GoSL) has not addressed the accusations of human rights violations and alleged war crimes or facilitated the reconciliation process. The GoSL continues to maintain the present status quo where the minorities are intimidated and alienated rather than effect change via active participation despite the numerous United Nations Human Rights Council (UNHRC) Resolutions adopted to promote reconciliation, accountability, and human rights in Sri Lanka. This article discusses how concern over the treatment of minorities has prompted external actors to be involved in pressuring the GoSL to commit to upholding the UNHRC Resolutions adopted and revised since the end of the Civil War in Sri Lanka. The study has found that the present political leadership in Sri Lanka is unable to address the Human rights violations happening across the country. In a changing geopolitical environment, the external actors are trying to promote their own national interests in South Asia and the Indo-pacific, while the minority ethnic and religious communities of Sri Lanka are still at the receiving end of large-scale internal conflicts and human rights violations.

**Keywords:** Sri Lankan minorities, human rights, UNHRC Resolution on Sri Lanka, intervention, Post-war Sri Lanka

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In Sri Lanka, episodes of polarisation have been rooted in diverse social, economic, and political cleavages. Class, ethnic, caste, and regional divisions have marked the country's politics, with different historical conjunctures bringing these cleavages to the fore during different periods (Kadirgamar, 2020). After gaining independence from four hundred years long British rule in 1948, Sri Lanka faced the utmost challenge of uniting its multi-religious communities and multi-ethnic groups within one territory, under one ruling government. However, the country's diverse social, cultural, and religious issues did not allow its political leaders to settle these issues at hand with harmony.

Sri Lanka is home to several ethnic groups (with Sinhalese being in the majority and Sri Lankan and Indian Tamils being in the minorities) and multiple religious communities (with the Buddhists consisting of the majority population and the Hindus, the Muslims and the Christians being the minority). Since independence, these minority ethnic and religious communities have been fighting for their rightful place in the country's society, economy, and polity. They allege the ruling

governments to be biased towards the majority ethnic group and demand justice on their part. The alleged discrimination they faced in the hands of the majority resulted in the formation of the LTTE in North-eastern Sri Lanka in 1976. With the formation of this Tamil militant group, tensions escalated across borders. The conflict between Sri Lankan governments and the LTTE have resulted in endless civilian death and gross human right violation. This brought international attention and the United Nations Human Rights Council intervened in the internal rulings of the country to promote peace and reconciliation among its ethnic groups. The country has been facing a humanitarian crisis with religious and ethnic conflicts reaching its peak in the recent decade.

The decade-long intervention of the UNHRC in Sri Lanka to promote an environment of peace and harmony among its citizens is far from achieving its goal. The geopolitical environment of the world has changed radically over the last decade and the external interventions in Sri Lanka including the West, the U.S, China and other international actors are a topic of discussion today. This article is an attempt to understand the gravity of UNHRC resolutions and other external interventions in Sri Lanka and their long-term effects on the country's polity and economy. Will the minority communities in Sri Lanka benefit from the external intervention? Will the Sri Lankan government be moved by external intervention to adopt the UNHRC resolutions in the country to promote the interests of the minority?

### **Background to the UNHRC Resolutions on Sri Lanka**

Sri Lanka populated with multi-ethnic and multi-religious communities is home to a population of over 22 million consisting of several ethnic identities such as; a majority of Sinhalese (74.7%), Sri Lankan Tamils (11.2%), Indian Tamils (4.1%), Moors (9.3%) and other minorities (0.5%) as well as multiple faiths such as; Buddhism (70.1%), Hinduism (12.6%), Islam (9.7%), and Christianity and other minorities (7.6%).<sup>1</sup> This melting pot of cultures eventually led to the friction between the majority Sinhalese populace and the Tamil community of the island nation, which resulted in an ethnic conflict that lasted nearly three decades. However, the year 2009 saw the end of the Civil War with a decisive military victory for the Sri Lankan armed forces over the Tamil separatist organization Liberation Tigers of the Tamil Eelam (LTTE). In the victory speech in the aftermath of the Civil War, then-President Mahinda Rajapaksa declared "We removed the word minorities from our vocabulary three years ago. No longer are the Tamils, Muslims, Burghers, Malays, and any other minorities. There are only two people in this country. One is the people that love this country. The other comprises the small groups that have no love for the land of their birth" (Ismail, 2009).

This statement expressed his vision of consolidating the country as one nation, ousting ethnic differences that hindered the progress of the country. Nevertheless, Sri Lanka soon came to the forefront of the diplomatic arena as allegations of human rights violations and war crimes conducted by Sri Lankan armed forces during the final phase of the war against Tamil civilians were raised in international forums. While the GoSL denied these charges, the pressure from external actors, primarily of the US and the EU, culminated in the visit of the former UN Secretary-General Ban Ki-moon to Sri Lanka (Symonds, 2009). In response to these allegations, the GoSL established the Lessons Learnt Reconciliation Commission (LLRC) in 2010, to investigate war crimes and human rights violations during the period of military

engagement from 2002 to 2009. The final report of the LLRC published in 2011 determined that the Sri Lankan armed forces are not guilty of the above-mentioned indictments and thereby have not violated any humanitarian international law and provided several recommendations on the process of reconciliation.

However, the international community remained dissatisfied with domestic attempts at reconciliation and transparency regarding the allegations. This led to the eventual adoption of the US-backed Resolution 19/1 titled “Promoting reconciliation, accountability and human rights in Sri Lanka” at the United Nations Human Rights Council (UNHRC) in March 2012 with 24 countries voting in favour. The Rajapaksa led Government was vocal in their criticism of the UNHRC Resolution, viewing it as part of the Tamil Diaspora. Moreover, the GoSL was of the firm stance that any form of intervention would be detrimental to the reconciliation process and the President in the face of the deliberations taking place in Geneva clearly stated that Sri Lanka would not tolerate any interference in domestic affairs (Sirisena, 2012).

However, the UNHRC advocated the implementation of the recommendations made by the LLRC which marked positive progress in terms of reconciliation in Sri Lanka. In particular, the development of infrastructure, rehabilitation, and reintegration of former LTTE cadres, the welfare and resettlement of the IDPs and the recalling of refugees, reintegration of the political, legal, and civil rights of Northern and Eastern provinces under the GoSL and holding elections in the war-affected areas are few notable efforts made by the Rajapaksa Government. Conversely, this constructive period was short-lived as in 2015, the Office of the High Commissioner of Human Rights conducting mandate investigations on Sri Lanka (OISL) published a detailed report on human rights violations during the Civil War, including unlawful killings, enforced disappearance, sexual violence, accounts of torture, engagement of children in hostilities and other serious crimes. The OISL recommended that a special court should be appointed to facilitate accountability in Sri Lanka by stating that; “Sri Lanka’s criminal justice system is not yet ready or fully equipped to promptly conduct the “independent and credible investigation” into the allegations contained in this report... Sri Lanka should draw on the lessons learnt and good practices of other countries that have succeeded with hybrid special courts, integrating international judges, prosecutors, lawyers and investigators” (Report of the OHCHR Investigation on Sri Lanka).

On the domestic front, Sri Lanka underwent significant changes in leadership in 2015, as political upheaval brought a UNP led government into power under President Maithripala Sirisena and PM Ranil Wickremesinghe. This marked a change in the GoSL approach to reconciliation as measures such as reducing military presence in the North, restoring land back to original owners among the IDPs were put into effect. The most notable change in terms of reconciliation occurred with the adoption of the landmark UNHRC Resolution 30/1 which was adopted without a vote in 2015. The thirty-six commitments made under Resolution 30/1 can be broadly classified as; Transitional justice and reconciliation, Rights and rule of law, Security and demilitarisation, Power sharing, and International engagement (Verité Research, 2021). Despite signifying the commitment of the new Sri Lankan administration to work towards reconciliation and address war crimes by the means of UNHRC Resolution 30/1, the GoSL continued to insist on relying on domestic courts in the investigation of the crimes, rejecting the recommendation of the OISL

to engage an international court and thereby preventing any interventions from the international community. Subsequently, the UNP led Government has adopted two “roll-over” resolutions; Resolution 34/1 and Resolution 40/1 in 2017 and 2019 respectively, reaffirming the previous commitments which had remained unfulfilled over the years.

### **The Present Status of the UNHRC Resolutions on Sri Lanka**

The end of the year 2019 saw another change in the political landscape of Sri Lanka, as a new Rajapaksa Regime came to power under President Gotabaya Rajapaksa and PM Mahinda Rajapaksa. It should be noted that President Gotabaya Rajapaksa headed the military operations during the final phase of the Civil War and had faced allegations of war crimes which he had denied. Conversely, in February 2020 the GoSL informed the UN Human Rights Council of its decision to withdraw the co-sponsorship of Resolution 40/1 and its predecessors, Resolutions 34/1 and 30/1. The GoSL made the above decision citing that; the recommendations made by the OHCHR Report were politicised and biased without any consideration to Sri Lankan input, the mandate incorporated many issues of domestic concern which borders on intervention, and the changes implemented by Resolution 30/1 and its following resolutions were detrimental to national interest and security. The GoSL also believed that Resolution 30/1 and related resolutions might set a harmful precedent that might affect all UN member states. Thereby the GoSL while declaring its willingness to continue constructive interactions with the UN and the international community, expressed the intent to formulate a domestically developed and implemented approach towards reconciliation and accountability (Permanent Mission of Sri Lanka to the United Nations, n.d.).

The international community, especially the “Core Group on Sri Lanka” as well as the US, expressed strong disapproval at this decision which was reflected in the most recent UNHRC regular sessions in March 2021. The UN High Commissioner for Human Rights, Michelle Bachelet released a statement condemning the failure of successive Governments of Sri Lanka to bring the matter of reconciliation and accountability to a close, while the human rights concerns, especially that of minorities, continued to escalate and claimed that “By repeatedly failing to advance accountability for past human rights violations committed, and by withdrawing its support for the Council’s resolution 30/1 and related measures, the Government [GoSL] has largely closed the door on the possibility of genuine progress to end impunity through a national process” (Bachelet, 2021).

Despite the relentless pressure from the international community, the GoSL has released a statement requesting the support of the UN Human Rights Council to reject the renewal of the resolution in consideration of Sri Lanka’s “continued engagement and cooperation”, the need to present a united front to overcome the COVID-19 pandemic, and the adverse message it would convey to the Global South.<sup>1</sup> However, the ground realities of Sri Lankan human rights concerns failed to convince the UNHRC members to grant such a reprieve from a renewed resolution. This could

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<sup>1</sup> A comprehensive account of the Sri Lankan ethnic conflict is available on the website of the Council on Foreign Relations, Bajoria, J. (2009, May 18). “The Sri Lankan Conflict.”. Retrieved from <https://www.cfr.org/backgrounder/sri-lankan-conflict> [Accessed 15 May 2021]

be primarily due to the increased inter-communal tensions, especially the treatment of minority communities in recent years.

### **Treatment of Minorities in Post-War Sri Lanka**

Upon observing the current state of affairs in Sri Lanka it is evident that the reconciliation and accountability process under the successive Governments have been ineffective at best and useless at worst. Sri Lanka enjoys what can be called 'restless peace' where the public experience and encounter sentiments of fear and hatred towards certain minority ethnic groups in their daily lives. In the case of the former Rajapaksa regime under Mahinda Rajapaksa, reconciliation attempts appeared to be merely lip service. The elections in the Northern province proved ineffective as the 13th amendment of the constitution prevented the Northern province from operating independently. Moreover, continued military presence in the North and the East oppressed the inhabitant local communities comprising mainly of Tamils and Muslims, which they likened to being under military rule.<sup>2</sup> Likewise, the UNP Government under President Maithripala Sirisena alienated these communities further by arresting rehabilitated LTTE cadres, being unable to resolve issues regarding political prisoners and the noticeable political instability and the lack of central authority which had resulted in an uncertain atmosphere that was generally uncondusive towards reconciliation.

Perhaps the most damaging causes for the failure of reconciliation can be accounted for the disinterest towards the recommendations suggested by the LLRC and the unchecked advance of Sinhala Buddhist extremist groups such as the 'Bodu Bala Sena' (BBS) that advocated anti-Muslim sentiments and thereby successfully estranged the minorities and intensified inter-communal tensions in Sri Lanka. Whereas there were no apparent occurrences of ethnic violence in the immediate aftermath of the Civil War, there were a few notable exceptions over the years, namely the Digana incident and the Aluthgama incident.<sup>3</sup> The noted incidents of ethnic violence targeted the minority group of Sri Lankan Muslims, who are by and large a Tamil speaking community. This presented a substantial threat to the relative peace in Sri Lanka as the riots led by Sinhala Buddhist extremist groups continue to foster hostility among the Sinhala community against the Muslim minority and, by proxy, the Tamil community. The Easter Attack on Sri Lanka in April 2019, claimed by the National Thowheeth Jama'ath, a terrorist group affiliated with the Islamic State, only served to exacerbate these tensions.

The treatment of minorities underwent a significant change with the re-election of a new Rajapaksa government under President Gotabaya Rajapaksa, who was strongly backed by the Sinhala majority in November 2019. He was able to further consolidate his power with the General Election in August 2020, where his political party, SLPP was able to secure a two-thirds mandate within the Parliament. Critics

<sup>2</sup> A detailed account regarding the Rajapaksa government and the causes behind the failure of the reconciliation process is available in Silva, N.C.R. (2017). "Failure of Reconciliation in Sri Lanka risk of reproduction of war?" Global Disaster Resilience Centre, University of Huddersfield: Bangkok, Thailand.

<sup>3</sup> A Report on the Aluthgama incident by the Law & Society Trust provides a concise accounting of the development of the rising Sinhala Buddhist extremist nationalistic sentiments in Sri Lanka (pp 7-14). Law & Society Trust (2014). 'Where Have All the Neighbours Gone? Aluthgama Riots And Its Aftermath'. Colombo: Law & Society Trust.

are vocal about the fact that human rights, particularly those related to media freedom, human rights professionals, and the treatment of minorities, have suffered since Gotabaya Rajapaksa came into power. UN High Commissioner for Human Rights, in her oral update in February 2020, noted, "...the recent trend towards moving civilian functions under the Ministry of Defence or retired military officers, and renewed reports of surveillance and harassment of human rights defenders, journalists, and victims. The increasing levels of hate speech, and security and policy measures appear to be discriminately and disproportionately directed against minorities, both Tamil and Muslim" (Bachelet, 2020).

Furthermore, the situation on the ground worsened as the Government's response to the COVID-19 pandemic triggered further discrimination. The use of the armed forces to manage the pandemic alienates minorities in the former war-afflicted areas who tend to view the armed forces with a certain sense of animosity and fear. On a communal level, the rise of this discrimination was marked by the gazette issued by the Health Ministry calling for the mandatory cremation of all the deceased Covid-19 victims, which caused much grief to both Muslim and Christian communities. This measure gained the attention of the international community as forced cremation was not a safe practice recommended by the WHO (or followed by any other country affected by the pandemic) and was considered a violation of fundamental human rights, as pointed out by several civil societies including Amnesty International.<sup>4</sup> While the Government rescinded this measure in February 2021, following the visit of the Pakistani Premier Imran Khan and perhaps in anticipation of the pending UNHRC session, it served to highlight that the Rajapaksa Government advocated the discrimination of minorities which aligns with its strong security-based nationalistic stance.

Consequently, the deteriorating human rights, handling accountability with impunity and the discrimination of minorities alongside the withdrawal from the co-sponsorship of UNHRC resolutions meant that the international community saw the opportunity to call for an intrusive human rights intervention in Sri Lankan domestic affairs at the 46<sup>th</sup> Session of the UN Human Rights Council on March 2021. However, it is evident through the vote held on the passing of a renewed resolution that the UNHRC resolution on Sri Lanka has become a part of the current geopolitical power struggle within the region. The UNHRC Resolution on 'promoting reconciliation, accountability and human rights in Sri Lanka' on the 46<sup>th</sup> Session held in March 2021 was passed with 22 members in favour, 11 against and 14 abstentions (United Nations Human Rights Council, 2021). The resolution was led by the UK along with the Core Group on Sri Lanka, comprising Canada, Germany, Montenegro, and North Macedonia, which announced its intention in February 2021 (Commonwealth Foreign & Development Office, 2021). Despite not being a member of the UNHRC, the resolution was further backed by the US, calling for support against "the lack of accountability for past atrocities in Sri Lanka" as indicated by the statement by the US Secretary of State (US Mission to International Organisations in Geneva, 2021). Upon scrutiny, it is evident that the votes in favour and several abstentions could be seen as being influenced by the US and the UK led Western powers.

Many critics note that the UNHRC resolution on Sri Lanka has little to do with exposing the atrocities committed during the Civil War or defending human rights or promoting accountability but rather a manifestation of the forceful attempts of

the US-led Western powers to countermand Beijing's influence in the Indo-Pacific region by bullying the Sri Lankan Government. This has become evident since the UNP Government which was notably compliant towards the West and against China was replaced by another Rajapaksa regime that is friendly towards China. The fear of China gaining a permanent foothold in the region via Sri Lanka has intensified since the lease of the Hambantota Port as Sri Lanka becomes increasingly dependent on Chinese financial aid (The Sunday Times, 2021). This has led the West to use all mechanisms at their disposal to intervene in the domestic affairs of the country. Critics also note that the concerns presented by the West are hypocritical to say the least, as in the last few decades alone the military interventions led by US and UK are responsible for hundreds and thousands of deaths within the region. Moreover, the abstentions by both India and Japan are seen as implicit support towards the Western bloc, as both countries are part of the 'Quad' security grouping along with the US and Australia.

In the case of India, the issue is much more complex; Sri Lanka requested the support of India at the UNHRC, as it is the closest neighbour of the island nation and the dominant force within the region. However, India indicated that Sri Lanka should not take India for granted by refraining, which Sri Lanka viewed more or less as voting in support of the resolution. In his visit to Sri Lanka earlier this year, Indian External Affairs Minister Jaishankar stated that India would hold Sri Lanka to work towards fair treatment of the Tamil community including upholding the promises made with the 13<sup>th</sup> Amendment that was established through Indian intervention in 1987 (The Wire, 2021). Critics revealed that the Indian abstention may have been affected by the approaching elections, as New Delhi sought to secure the favour of Tamil Nadu voters who had a vested interest in the treatment of Tamil communities in Sri Lanka. Moreover, it was also noted that the UNHRC vote was an opportunity for India to express its dissatisfaction with Sri Lanka for cancelling the agreement that handed over the development of the Eastern Container Terminal to India. Another crucial factor that decided the Indian vote was the threat of China, as India has joined itself with the US into becoming a balancing power within the region. Hence, it is important to consider the influence of the China factor in the UNHRC resolution against Sri Lanka. Whereas the Sri Lankan foreign policy is usually a balancing act between China and the US, in the recent years with the Rajapaksa Government, there had been a noticeable shift towards China. China was vocal in its support to Sri Lanka at the UNHRC session, voting against the renewal of the resolution. In defence of Sri Lanka, the Chinese Foreign Ministry spokesman Wang Wenbin stated, "We are against politicising human rights and applying double standards or using it to interfere in other countries affairs" (Press Trust of India, 2021). The unreserved backing of China towards the nationalistic stance that the Rajapaksa administration has taken towards the human rights indicate the effort made to secure the strategic interests and the political influence over the island nation. However, the recent event may result in a Sri Lankan foreign policy shift in favour of China.

### **Conclusion**

The cultural, ethnic and religious differences in Sri Lanka are deep-rooted and demand a holistic approach from the national and international actors to address them. The national government, at present, is not taking any accountability for the

large-scale human rights violations that have been happening within the country's territory. The Rajapaksa government is also not fond of external interventions in the country's internal affairs. The ruling government's ignorant stand towards its minority communities is not helping the case of human rights in Sri Lanka. Minority ethnic and religious groups still seek justice and in need of a people's centric decision-making process in the country. The UNHRC intervention was a need of the time when human rights violations were growing uncontrollably in the minority dominated regions of the country. Initially, the UNHRC Resolution on Sri Lanka was merely a call for accountability for the violation of human rights and war crimes committed during the Civil War in Sri Lanka. However, in recent years, it is evident that the UNHRC Resolution on Sri Lanka has become a façade for a geo-political power struggle with broader implications. In conclusion, the West along with the support from India sought to exercise control over Sri Lanka by backing the country into a corner, while China through its investments and unconditional support in international forums sought to consolidate its position within the Indian Ocean region. The Rajapaksa administration was insistent against the intervention in the reconciliation process while criticising the attempts made by the member states to politicise the issue in favour of their own interests. Though Sri Lanka was unable to prevent the adoption of a renewed resolution at the UNHRC session, the country will certainly take note of its supporters and dissenters, which implies that China may have secured a favourable position while India and the Western powers will continue to force their influence on the island nation through attempts at further intervention.

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