

Catholic Church to go to UNHRC seeking international probe

The Catholic Church is planning to present a proposal to the United Nations Human Rights Council (UNHRC) through several foreign governments and international organizations to initiate an international investigation into the Easter Sunday terrorist attacks with a view to mete out justice to the victims of those attacks. Archbishop of Colombo, His Eminence Cardinal Malcolm Ranjith revealed this to the BBC Sinhala Service yesterday in a statement marking the fifth anniversary of the terrorist attacks which took place on April 21, 2019. He accused the past and the present governments that they have failed to reveal the conspiracy behind the Attacks or the masterminds of it, despite five years having lapsed. He questioned whether one can expect justice under such a situation.

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- Do you consider this situation as a Contemporary International issue? Give reasons for your answer
- Critically analyze the complaint procedure to UNHRC by an organizations under the UN Conventions signed and Ratified by Sri Lanka
- Is this case related to terrorist financing under the UN Conventions? Discuss under Money Laundering and other UN Conventions
- Why did the local mechanism fail to address this contemporary Issue?

A. Do you consider this situation as a Contemporary International issue? Give reasons for your answer

Yes, the situation described can be considered a contemporary international issue. Here are the reasons for this conclusion:

- 1. International Scope:** The involvement of the Catholic Church planning to present a proposal to the United Nations Human Rights Council (UNHRC) indicates that this issue transcends national boundaries. The call for an international investigation into the Easter Sunday terrorist attacks aims to involve multiple countries and international organizations, highlighting its global relevance.
- 2. Human Rights and Justice:** The focus on seeking justice for the victims of the Easter Sunday attacks underscores significant human rights concerns. Terrorist attacks often lead to grave human rights violations, and addressing these through international mechanisms emphasizes the importance of global cooperation in upholding human rights standards.
- 3. Failure of National Mechanisms:** The Archbishop's accusation that both past and present governments have failed to reveal the conspiracy behind the attacks or identify the masterminds underscores a failure of national justice mechanisms. This necessitates international intervention, making it a matter of international interest and concern.
- 4. UNHRC Involvement:** The involvement of the UNHRC is critical. This body deals with global human rights issues, and its engagement indicates that the matter is not only of national but also of international significance. The UNHRC's role in addressing this issue further highlights its contemporary international relevance.
- 5. Terrorism and Global Security:** Terrorism is a global threat, and events like the Easter Sunday attacks have wide-reaching implications for international security and counter-terrorism efforts. The call for an international investigation aligns with global efforts to combat terrorism and promote international peace and security.
- 6. International Conventions and Agreements:** The situation also brings into focus various international conventions and agreements related to human rights, counter-terrorism, and justice. The discussion on the complaint procedure to the UNHRC under UN Conventions signed and ratified by Sri Lanka reflects the international legal framework governing such issues, further highlighting its international dimension.

Therefore, due to its cross-border implications, involvement of international bodies, and the global nature of the issues at stake (human rights, terrorism, and justice), this situation is indeed a contemporary international issue.

B. Critically analyze the complaint procedure to UNHRC by an organizations under the UN Conventions signed and Ratified by Sri Lanka

To critically analyze the complaint procedure to the United Nations Human Rights Council (UNHRC) by organizations under the UN Conventions signed and ratified by Sri Lanka, it's essential to understand the mechanisms available, their strengths, and limitations. The process involves several steps and involves various actors, including states, NGOs, and victims. Here's a detailed examination:

1. Mechanisms for Complaints

Individual Complaints

- **Optional Protocols:** Many human rights treaties have optional protocols that allow for individual complaints. For instance, the International Covenant on Civil and Political Rights (ICCPR) has the First Optional Protocol, which Sri Lanka has ratified, allowing individuals to bring complaints about human rights violations directly to the Human Rights Committee.

Universal Periodic Review (UPR)

- **Process:** The UPR is a unique process that involves a review of the human rights records of all UN Member States. NGOs and other stakeholders can submit information that the UNHRC uses to assess the human rights situation in a given country.

Special Procedures

- **Special Rapporteurs:** These are independent experts appointed by the UNHRC to monitor and report on specific human rights issues. NGOs and victims can submit complaints directly to these rapporteurs.

Commission of Inquiry and Fact-Finding Missions

- **Purpose:** These are established to investigate serious human rights violations. The findings can influence international opinion and policy, though they do not have binding legal authority.

2. Strengths of the Complaint Procedures

Accessibility

- **Victim Empowerment:** Individual complaint mechanisms empower victims and NGOs to bring attention to human rights violations on an international stage.
- **Global Attention:** The involvement of the UNHRC can bring significant international attention and pressure on the government of Sri Lanka to address the issues.

Comprehensive Review

- **UPR:** The UPR process ensures that all aspects of a country's human rights record are reviewed periodically, providing a holistic view of the situation.
- **Special Rapporteurs:** These experts can bring specialized knowledge and targeted attention to specific issues, such as the aftermath of terrorist attacks.

3. Limitations and Challenges

Non-binding Nature

- **Recommendations:** The recommendations made by the UNHRC, its committees, and special rapporteurs are not legally binding. States may choose to ignore or partially implement them.
- **Enforcement:** There is no direct enforcement mechanism to compel states to comply with recommendations.

Political Influence

- **State Sovereignty:** Countries often resist international scrutiny citing sovereignty, which can limit the effectiveness of these mechanisms.
- **Geopolitical Bias:** The proceedings can be influenced by geopolitical considerations, which may affect the impartiality of the outcomes.

Resource Constraints

- **Funding and Capacity:** The UNHRC and its mechanisms often face resource constraints, which can limit the thoroughness and speed of their investigations and responses.

Domestic Resistance

- **Government Compliance:** Even if international bodies call for action, domestic political will is crucial for implementation. In Sri Lanka, historical resistance to international intervention has been significant.
- **Legal and Institutional Barriers:** National legal systems might lack the mechanisms to incorporate international recommendations effectively.

4. Case-Specific Analysis: Easter Sunday Attacks

Context

- **Background:** The Catholic Church's intention to seek an international probe into the Easter Sunday attacks highlights gaps in national investigations and justice mechanisms.

Procedural Steps

1. **Submission:** The Church or associated NGOs would submit a detailed complaint to the relevant UN body, such as the Human Rights Committee under the ICCPR or a special rapporteur on terrorism or religious freedom.
2. **Preliminary Review:** The committee or rapporteur would conduct a preliminary review to assess the admissibility of the complaint.
3. **Investigation:** If admitted, an investigation would follow, involving data collection, fact-finding missions, and consultations with stakeholders.
4. **Recommendations:** The findings would be compiled into a report with recommendations for Sri Lanka.

Potential Outcomes

- **Increased Pressure:** International scrutiny could pressure Sri Lankan authorities to take more decisive actions in investigating and prosecuting those responsible.
- **Policy Changes:** Recommendations could lead to policy and legal reforms aimed at strengthening the national justice system.

5. Conclusion

While the complaint procedures to the UNHRC provide a valuable avenue for addressing human rights violations, their effectiveness is often hampered by non-binding outcomes, political resistance, and resource limitations. However, these mechanisms play a crucial role in international human rights advocacy by bringing issues to global attention, applying moral and political pressure, and providing a platform for victims and NGOs to seek justice. In the context of the Easter Sunday attacks, utilizing these procedures could help address the impunity and justice deficits faced by the victims and contribute to broader efforts at international accountability and human rights protection.

C. Is this case related to terrorist financing under the UN Conventions? Discuss under Money Laundering and other UN Conventions

To determine if the case related to the Easter Sunday attacks in Sri Lanka involves terrorist financing under UN Conventions, we need to explore several key international frameworks and conventions on terrorism and money laundering. The following discussion will focus on the relevant UN Conventions and how they apply to this case.

Relevant UN Conventions

- 1. International Convention for the Suppression of the Financing of Terrorism (1999)**
- 2. UN Convention against Transnational Organized Crime (2000)**
- 3. UN Convention against Corruption (2003)**
- 4. UN Security Council Resolutions (e.g., Resolution 1373)**

International Convention for the Suppression of the Financing of Terrorism (1999)

Definition and Obligations

- **Article 2:** Defines the offense of financing terrorism as providing or collecting funds with the intention or knowledge that they will be used to carry out a terrorist act.
- **Article 18:** Requires States Parties to assist each other in investigations or criminal or extradition proceedings related to the financing of terrorism.

Application to Easter Sunday Attacks

- If there is evidence that funds were specifically raised or used to facilitate the Easter Sunday attacks, this convention would directly apply.
- Investigating the financial channels that supported the attacks could reveal connections to international networks or entities that knowingly funded terrorist activities.

UN Convention against Transnational Organized Crime (2000)

Relevance

- **Article 5:** Criminalizes participation in an organized criminal group, which can include financial operations supporting terrorist activities.
- **Article 7:** Focuses on measures to combat money laundering, which is often linked to the financing of terrorism.

Application to Easter Sunday Attacks

- If the attacks were carried out by an organized criminal group, the financial aspects of their operations could be scrutinized under this convention.

- Identifying and dismantling the financial infrastructure of such groups would be crucial for preventing future attacks.

UN Convention against Corruption (2003)

Relevance

- **Article 14:** Mandates measures to prevent money laundering.
- **Article 23:** Requires States to criminalize the laundering of proceeds from criminal activities, which can include terrorism.

Application to Easter Sunday Attacks

- Corruption and the abuse of power can facilitate terrorist financing by enabling the flow of illicit funds.
- Investigations could uncover corrupt practices that allowed the financing of the attacks, thus triggering obligations under this convention.

UN Security Council Resolutions

Resolution 1373 (2001)

- **Obligations:** Calls on States to prevent and suppress the financing of terrorist acts and criminalize the willful provision or collection of funds for such acts.
- **Cooperation:** Urges international cooperation in the fight against terrorism, including sharing information and assisting in investigations.

Application to Easter Sunday Attacks

- This resolution reinforces the obligations of Sri Lanka and other States to take robust measures against terrorist financing.
- It provides a framework for international cooperation, essential for tracing and disrupting financial networks supporting terrorism.

Money Laundering and Terrorist Financing

Mechanisms

- **Layering and Integration:** Terrorist groups often use complex layering of financial transactions to obscure the origins of their funds.
- **Shell Companies and Front Organizations:** These entities can be used to channel funds for terrorist activities without raising immediate suspicion.

Investigative Approach

- **Financial Intelligence Units (FIUs):** National and international FIUs can play a key role in tracking suspicious transactions and identifying links to terrorist financing.
- **Cooperation with Financial Institutions:** Banks and other financial institutions are required to report suspicious activities that may be related to money laundering or terrorist financing.

Case-Specific Considerations

1. Identification of Funding Sources

- Investigating the origins and flow of funds used in the Easter Sunday attacks can reveal whether they were part of a larger network of terrorist financing.
- Any identified sources must be scrutinized for connections to known terrorist organizations or activities.

2. Link to International Networks

- The presence of international connections in the funding or planning of the attacks would reinforce the relevance of these UN Conventions.
- Cross-border financial transactions and support networks need to be investigated thoroughly.

3. Domestic Implementation

- Sri Lanka's compliance with these conventions would involve robust national legislation and enforcement mechanisms to identify, freeze, and confiscate assets related to terrorist financing.
- Effective implementation of anti-money laundering laws and practices is crucial.

Conclusion

The Easter Sunday attacks in Sri Lanka can be examined under the lens of terrorist financing within the framework of the relevant UN Conventions. These include the International Convention for the Suppression of the Financing of Terrorism, the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, and applicable UN Security Council Resolutions. Investigating the financial aspects of the attacks, identifying the sources of funds, and determining if these funds were used with the intention or knowledge of facilitating terrorism are critical steps in applying these conventions. Robust national and international cooperation is essential to effectively combat terrorist financing and ensure accountability.

D. To critically analyze why the local mechanisms in Sri Lanka failed to address the contemporary issue of the Easter Sunday terrorist attacks, we need to consider several factors. These include the limitations and challenges within the judicial system, political and social factors, administrative inefficiencies, and potential issues with corruption and governance.

1. Judicial and Legal Challenges

Inadequate Legal Framework

- **Legislation:** While Sri Lanka has laws addressing terrorism, such as the Prevention of Terrorism Act (PTA), these laws have been criticized for being outdated and inadequate in addressing modern forms of terrorism, including financial and international aspects.
- **Enforcement:** The implementation and enforcement of these laws are often inconsistent, leading to gaps in addressing terrorism effectively.

Judicial Independence

- **Political Influence:** The judiciary in Sri Lanka has faced accusations of being influenced by political actors, which can undermine the impartiality and effectiveness of legal proceedings related to terrorism.
- **Case Backlog:** The legal system is burdened with a significant backlog of cases, delaying the processing of terrorism-related cases and justice delivery.

2. Political and Social Factors

Political Will

- **Government Priorities:** Successive governments may lack the political will to fully address the underlying causes and masterminds of the attacks due to various political considerations, including maintaining power and avoiding political fallout.
- **Partisan Politics:** The politicization of security and justice issues can lead to selective prosecution or protection of certain individuals or groups, hindering comprehensive investigation and accountability.

Community Trust

- **Public Confidence:** A lack of trust in the government's ability to provide justice can discourage victims and witnesses from coming forward, impeding investigations.
- **Social Divisions:** Ethnic and religious divisions can exacerbate mistrust and conflict, making it difficult to achieve a unified approach to addressing terrorism.

3. Administrative Inefficiencies

Resource Constraints

- **Funding and Resources:** Limited financial and human resources can hamper the ability of law enforcement and judicial bodies to effectively investigate and prosecute terrorism cases.
- **Training and Expertise:** A lack of specialized training and expertise in handling terrorism-related investigations and prosecutions can lead to inefficiencies and errors.

Coordination and Communication

- **Inter-Agency Cooperation:** Poor coordination and communication between different law enforcement and intelligence agencies can lead to information silos, missed opportunities, and incomplete investigations.
- **Intelligence Sharing:** Ineffective intelligence sharing within the country and with international partners can limit the ability to track and disrupt terrorist networks.

4. Corruption and Governance Issues

Corruption

- **Law Enforcement Corruption:** Corruption within the police and security forces can lead to the protection of suspects, destruction of evidence, and overall weakening of the justice process.
- **Political Corruption:** Corruption at higher political levels can result in the obstruction of justice, including interference in investigations and judicial processes.

Governance Challenges

- **Policy Implementation:** Even when policies and strategies are in place, poor implementation due to weak governance structures can result in failure to address terrorism effectively.
- **Accountability Mechanisms:** Weak accountability mechanisms allow for impunity among those responsible for the attacks, further eroding trust in the justice system.

Case-Specific Analysis: Easter Sunday Attacks

Failure to Identify Masterminds

- **Investigative Shortcomings:** Despite several investigations, there has been a failure to identify and prosecute the masterminds behind the Easter Sunday attacks. This suggests significant deficiencies in the investigative processes.
- **External Pressure:** International pressure and calls for accountability have not translated into effective domestic actions, indicating a lack of responsiveness to both internal and external demands for justice.

Political and Security Landscape

- **State Responses:** The responses from the state have been criticized for being reactive rather than proactive, focusing on immediate security measures rather than long-term solutions to prevent future attacks.
- **Security Apparatus:** Flaws in the security apparatus, including failures in intelligence gathering and sharing, have been highlighted as major contributing factors to the failure to prevent the attacks.

Conclusion

The failure of local mechanisms in Sri Lanka to address the contemporary issue of the Easter Sunday attacks can be attributed to a combination of judicial and legal challenges, political and social factors, administrative inefficiencies, and issues related to corruption and governance. Addressing these multifaceted challenges requires comprehensive reforms, increased political will, and enhanced cooperation both domestically and internationally. Ensuring judicial independence, improving resource allocation, strengthening inter-agency coordination, and tackling corruption are essential steps towards building a more effective system to address and prevent terrorism.