



A huge fuss is being made about moves by the Secretary-General of the United Nations to appoint a panel of advisors to examine how the government in Sri Lanka is complying with international humanitarian law. This initiative has been regarded as outrageous by the President and his ruling team. Similar outbursts are being heard when the European Union is investigating whether Sri

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**Shyamon Jayasinghe**

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Sections of the Sri Lankan Diaspora allege a 'conspiracy by the West' in such incursions into domestic matters in the island.

This is madness. The doctrine of sovereignty asserts that each state has a right to deal with its citizens as it deems fit. This doctrine has long been dead. The first blow to the doctrine came from the international agreements to ban the slave trade so much so that any state had the right to confiscate a ship carrying slaves. "Trading in slaves is forbidden in conformity with the principles of international law". The object was "the

complete suppression of slavery in all its forms and of the slave trade by land and sea."

The next stage in the undermining of State Sovereignty came with the series of Geneva Conventions that now regulate the treatment of combatants and victims of war, including the victims of internal armed conflicts, such as those between the armed forces of a government and dissidents or other organized groups which control part of its territory. Often referred to as the laws of war, the laws and customs of

war or the law of armed conflict, is the legal corpus that comprises "the Geneva Conventions and the Hague Conventions as well as subsequent treaties, case law, and customary international law." It defines the conduct and responsibilities of belligerent nations, neutral nations and individuals engaged in warfare, in relation to each other and to protected persons, usually meaning civilians.

Then after the end of World War I in a series of treaties provision was made for the protection of the rights of minorities living within the newly carved boundaries of several European states.

Perhaps the decisive death blow to the idea of sovereignty came after World War II. The government of Germany under Hitler, on the understanding that

a state can do what it deems fit with regard to its own citizens, committed mass genocide by sending Jews to the gas chambers. These atrocities so much shocked the conscience of global citizens that a cry was made for international moves to stop this kind of thing happening again. Hitler's example alone demonstrated that no single state can be trusted to deal with its citizens on the basis of complete discretion. At the same time a realization dawned that the concerns of humanity are global and that any state has a right to have a say and act when a particular wrongdoing state violates human concerns.

*For ordinary observers it would be dishonest to deny that the regime does have a controversial record in this area. The killing, kidnapping and threatening of journalists and the arrogant nonchalance of government leaders with regard to such acts are instances.*

The modern conception of human rights developed in the aftermath of the Second World War in part as a response to the Holocaust, culminated in the signing of the Universal Declaration of Human Rights. The underlying idea is that all humans are endowed with certain entitlements

merely by reason of being human. The United Nations Charter was the standard-bearer, the first of several international treaties that helped to create an international human rights regime. Article 55 imposed a mandatory obligation on the United Nations "to promote universal respect for, and observance of, human rights and fundamental freedoms for all".



Article 56 imposed a similar obligation on member states to take joint and separate action to achieve that objective. Therefore, while Article 56 bound each member state (according to the International Court of Justice) to observe and respect human rights within its territorial jurisdictions, it also imposed an obligation on other states and on the international community generally, to ensure that this obligation was fulfilled.

In this way, "a government's treatment of its own nationals has now become the legitimate concern of the international community." When a government fails to abide by the terms of a multilateral treaty, other states parties to that treaty have the right, under international law, to draw attention to that failure in any form or manner permitted by law, and in any forum they choose to.

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