

Former Foreign Minister Mangala Samaraweera on Friday defended his role in piloting the UNHRC resolution on Sri Lanka as a co-sponsor saying the country was on the verge of an international investigation by 2014 and the Yahapalana Government managed to avoid it by negotiations he conducted on the telephone from New York with President Maithripala Sirisena, Prime Minister Ranil Wickremesinghe, foreign ministry officials and the UK and USA envoys in Colombo.

In a lengthy statement issued, Mr Samaraweera MP warns incumbent Prime Minister Mahinda Rajapaksa of facing a similar fate that befell the founder of the SLFP and one-time Premier S.W.R.D. Bandaranaike by supporting extremist forces.

The full text of Mr Samaraweera's statement is as follows:

Statement on withdrawal from Resolution 30/1 and subsequent resolutions extending its mandate in the UN Human Rights Council

On 23 May 2009, the then President of Sri Lanka and the Secretary-General of the United Nations adopted a Joint Statement in which Sri Lanka reiterated its strongest commitment to the promotion and protection of human rights, in keeping with international human rights standards and Sri Lanka's international obligations. Further, in the Joint Statement, the Secretary General underlined the importance of an accountability process for addressing violations of international humanitarian and human rights law and the Government stated that measures will be taken to address those grievances.

The Government of Sri Lanka also tabled a Resolution in the Human Rights Council in 2009 at a special session, and had it adopted by a vote on 27 May 2009. No Cabinet approval was sought for the Joint Statement or for the Resolution at the time. In this 2009 resolution which was Sri Lanka's own, where Sri Lanka was the main sponsor, the assurance given by the President of Sri Lanka that he does not regard a military solution as a final solution, as well as his commitment to a political solution with implementation of the 13th amendment to bring about lasting peace and reconciliation in Sri Lanka was welcomed. The resolution also contained elements including: Sri Lanka's continued commitment to the promotion and protection of all human rights and upholding human rights obligations and norms of international human rights law; commitment to strengthening its activities to ensure that there is no discrimination against ethnic minorities in the enjoyment of the full range of human rights;

welcoming the visit to Sri Lanka of the UN Secretary-General at the invitation of the President of Sri Lanka, endorsing the joint communique issued at the conclusion of the visit and the understandings contained therein; and urging the international community to cooperate with the Government of Sri Lanka in the reconstruction efforts, including by increasing the provision of financial assistance, and to continue to ensure the promotion and protection of all human rights, including economic, social and cultural rights.

However, the years that followed saw Sri Lanka fall short of these commitments that it undertook voluntarily as a means of discharging its own sovereign responsibility towards her own citizens including the implementation of the recommendations of the Lessons Learned and Reconciliation Commission (LLRC). This led to a series of resolutions in the Human Rights Council moved by the United States of America, co-sponsored by other members, in 2012, 2013 and 2014. Adopting an aggressive stance, Sri Lanka refused to work with other members of the Council to find consensus solutions. What should have been done as a responsible government, if it was seriously committed to protecting its sovereignty, should have been to take charge of processes and to not have allowed matters to escalate up to the point of an international investigation on Sri Lanka being appointed. However, the Government failed to do so. As a result, in 2014, resolution 25/1 eventually set up a human rights investigation on Sri Lanka which was called the OHCHR Investigation on Sri Lanka (OISL). This was the first ever investigation of this nature on Sri Lanka by an international entity.

Sri Lanka was in economic doldrums by then and isolated internationally. Sanctions were imposed on IMF and World Bank lending, GSP+ was lost. Our security forces lost opportunities of training with the best in the world and participating in UN peacekeeping operations. The respect, trust, dignity, and confidence that Sri Lanka enjoyed in the international community were in tatters. We were on the verge of facing further international action such as travel bans being imposed on our security forces and our leaders; a special rapporteur or a commission of inquiry being appointed; facing further action against Sri Lanka in other UN bodies to name and shame our country; losing credibility and facing further isolation both regionally and internationally at all levels; and cases being lodged in foreign courts against leaders and officials under universal jurisdiction. The Government of the day was very well aware that the resolutions in 2012, 2013 and 2014 would be adopted even if Sri Lanka did not cooperate. Yet, the Government, with full knowledge, dragged the country and the security forces into an international investigation in 2014. The political leaders decided to portray themselves locally as victims of an international process for local political gain while in fact placing the security forces personnel at the peril of

international action when the option of asserting sovereignty and initiating a local process for investigations was in Sri Lanka's hands.

No responsible country fights battles in the Human Rights Council. The Human Rights Council is not a battle field and it is certainly not a court of law. But the Government spent enormous sums of money sending large delegations to Geneva to stage protests, sending special envoys to countries all over the world – all for local political purposes while knowingly dragging the country to an international investigation; when all that was required was to uphold the rule of law and the human rights of all our citizens, investigate into allegations of human rights and humanitarian law violations in the country by all sides, and provide reparations to victims on all sides including families of missing police and security forces personnel.

At a time when Sri Lanka was in dire straits, the government changed in January 2015, and the Government of the day, under the leadership of President Sirisena decided, based on the 100 Day Programme, to bring all these issues back home from the international arena, by taking local ownership and taking charge of all processes through resolution 30/1. This was a reassertion of Sri Lanka's sovereignty and regaining Sri Lanka's lost respect and dignity among the international community once again. It was also an opportunity for Sri Lanka to prove that Sri Lankan justice is fully capable of ensuring credible accountability. Resolution 30/1 gives Sri Lanka and NOT the international community or an international court that responsibility.

The consensus resolution was intended to achieve three main aims. First and most importantly, it provided the means for Sri Lanka to take charge of its own reconciliation agenda, and provided a broad-framework and vision for Sri Lanka to strengthen reconciliation, end impunity, fortify democracy and strengthen, uphold and entrench institutionally the human rights of all citizens irrespective of their ethnicity, race, religion, faith or gender. The legislation to criminalize enforced disappearances, the work of the Office on Missing Persons and the Office of Reparations, releases of private land, and the strengthening of the Human Rights Commission of Sri Lanka including the Commission regaining "A" grade status stand as testaments to the partial fulfilment of these aspirations.

Second, the process undertaken allowed Sri Lanka the means to restore the dignity of the institutions of the army, airforce, navy and police, by investigating locally, through locally designed processes, all allegations of violations of the law including by the LTTE and any others.

Third, it enabled Sri Lanka to regain its due place and dignity on the international stage, normalizing its relations with the international community to chart its path to economic progress and prosperity as a hub in the Indian Ocean. In addition to many other benefits, normalizing ties with the EU which is the largest market for Sri Lankan exports, enabled the restoration of GSP+ which has helped create a large number of jobs. The resumption of military-to-military ties and intelligence sharing arrangements with the world's most powerful country, the United States of America enabled the establishment of the Sri Lankan Marine Corps and opened up opportunities for our security forces to participate in joint training and exercises including on humanitarian and disaster relief operations. Other than training and equipment transfers such as blue-water ships, the value of this partnership could not be clearer than in the days and weeks after the tragic Easter Bombings, when US experts played an immediate and critical role in helping to identify the remaining terrorist operatives in Sri Lanka.

The final text of the resolution was largely negotiated over the telephone, with the President and I at the same hotel in New York, and the Prime Minister in Colombo accompanied by the Secretary to the Ministry of Foreign Affairs at the time and the Ambassador of the US and High Commissioner of the UK. Once consensus was reached, the Secretary to the Ministry of Foreign Affairs at the time who was in Colombo had coordinated with Sri Lanka's Permanent Representative to the UN in Geneva and conveyed the decision of the Government of Sri Lanka to the Human Rights Council.

Once the resolution was adopted by the Council, it was tabled in Parliament on 23 October 2019. There was broad consensus in the House. Members from the major political parties represented in Parliament – including the UNP, SLFP, TNA and JHU - spoke in favour of the resolution. We all agreed that Sri Lanka had to come to terms with its past and reflect and introspect in order to move forward and achieve reconciliation, peace, stability and prosperity that had eluded our nation since Independence.

President Sirisena also convened two sessions of an All Party Conference at which the views of all political parties were consulted and sought for implementation of the provisions of the resolution, including the design of mechanisms. However, if I recall correctly, the parties representing what was then called the Joint Opposition in Parliament did not submit any views at the time.

When the resolution was discussed and debated in Parliament and the Paranagama Commission report was tabled in Parliament as well, our current Prime Minister Mahinda Rajapaksa, who was then an MP, was too anxious to even make an appearance in the House. After all, it was his promises on accountability in the Joint Statement with the then UN Secretary-General that started this whole process, and this would have been a wonderful opportunity for all sides to work together to formulate a local process for healing our beloved nation. There was nothing in the resolution that was not contained in the recommendations of the commissions that had been appointed by Mahinda Rajapaksa when he was President, including the LLRC, Paranagama, and Udalagama commissions and the National Human Rights Action Plan approved by his Cabinet. Indeed, he too, as I well know, is no stranger to Geneva, having taken documents regarding missing persons to the then UN Commission on Human Rights. It was Mahinda Rajapaksa who first called for Amnesty International to visit Sri Lanka, and even called on foreign countries to cut off aid to Sri Lanka if the human rights situation does not improve. However, when the opportunity arose, following the adoption of resolution 30/1 to work together to establish mechanisms to ensure non-recurrence of enforced disappearances and non-recurrence of conflict for sustainable peace and progress in Sri Lanka, Mahinda Rajapaksa was absent in Parliament and his supporters were so bereft of argument that they became an unruly mob to disrupt Parliamentary proceedings.

Backtracking on the resolution sends a very clear signal to the people of our country and our partners in the world. The message is that Sri Lanka cares not for reconciliation, accountability or even democracy. It heralds the dismantling of the institutions that form the bedrock of our nation's progress, the reversal of trust among communities and countries that was earned through much toil, and the embrace of our basest instincts of hate, insecurity, fear and envy. It is important to be mindful of the fact that although Sri Lanka withdraws from co-sponsorship of resolution 30/1 and subsequent resolutions that extended 30/1 (i.e. 34/1 and 40/1), the mandate of the resolutions passed by the Human Rights Council do not go away. The Office of the High Commissioner for Human Rights will remain bound by the provisions of resolution 40/1 and will have to continue to report to the Council even though Sri Lanka may not cooperate, and just as the Council did in pre-2015, it can continue to act without Sri Lanka's cooperation.

Over the last five years, the country was slowly healing. Relations between the communities were beginning to normalize. A Sri Lanka where everyone felt truly at home and at peace, as equal brothers and sisters, was beginning to emerge. The space had opened up to discuss and resolve problems without fear. We were beginning to work together to fulfill our dream of a peaceful and prosperous Sri Lanka. Our relations with the world were restored. We maintained close ties and amity with all

the major powers of the world – India, China, the US and EU – while strengthening our ties with all states including the states in East Asia.

If the government backtracks on this resolution, it must be prepared to take responsibility for the resumption of resentment, frustration and fear among the vulnerable in our country. From the many insurgencies we have experienced over the last few decades, we know where such feelings lead. It will have to take responsibility for the erosion of democracy. And, for our isolation in the world. We know the costs. Individual sanctions have already begun with a travel ban being placed by USA on the Commander of the Army. It would be no surprise if such targeted sanctions increase and in a few years our economy would be in tatters once again. And most of all, we know that feeling of unease and anxiety, the feeling of simmering conflict and fear, rather than tranquility, amity and progress.

Ultimately, the peace and prosperity of our country depend on ourselves and the choices we make. They depend not on our stars or on other countries. We must decide the future we want: to move forward together to peace and prosperity or backward alone into the darkness, fear and violence of the past. Similarly, on a personal note, Mahinda Rajapaksa was once a dear friend. Mahinda, you know that in your heart of hearts, you are not one of them. And demons, once unleashed, are not exorcised. I pray that your alliance with dark forces does not lead to you and Sri Lanka befalling the same fate as S.W.R.D Bandaranaike did after he made his pact with extremists.