

# PARLIAMENT WATCH – SRI LANKA\*

MARCH 2012



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## Overview

It may have come a few days after the Ides of March but foreboding was very much in the air, as the Sri Lankan government faced a major challenge to garner support from members of the International Community on the issue of human rights. While most senior government members were out in force overseas trying to fend off a resolution against the country at the United Nations Human Rights Council (UNHRC), Parliament too became a place for discussion on the subject of human rights. While a more in-depth discussion to dissect what went wrong in Geneva was put off for the next month with both the Government and Opposition agreeing to a two-day debate on the matter in April, legislators on both sides seized the heat generated by the passing of the resolution to air their views during the March sessions as well.

## The Resolution

The resolution against Sri Lanka was adopted on March 22, 2012. The text, tabled by the United States, was adopted by a vote of 24 in favour of, 15 against and with 8 abstentions.<sup>1</sup> In a resolution adopted by the 47-member Human Rights Council, it called on the Government to take “*all necessary additional steps to fulfill its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans.*”<sup>2</sup>

When Parliament met on March 23<sup>rd</sup>, the day after the resolution was adopted; it fell on the shoulders of the Acting Minister of External Affairs, Senior Minister of Human Resources D.E.W. Gunasekara to brief the Legislature on behalf of the Government, on the Resolution adopted at the 19th Session of the UNHRC in Geneva. “*The Council, by its action, has countered the cardinal principle of international law that domestic remedies must be exhausted and should be the first resort, prior to invoking intervention by external mechanisms. Moreover, it sets a negative precedent, for any country that thinks that might is right, to reopen any of the previous decisions of the Council for collateral purposes,*” the Minister said.<sup>3</sup>

The Minister went onto repeat the government’s plea that has been made over the past few months that the adoption of such a resolution be delayed so as to give the domestic mechanism for reconciliation – the recommendations of the Report of the Lessons Learnt and Reconciliation Commission (LLRC) more time to be implemented. “*The decision of the Council taken yesterday on Sri Lanka provides the credence to the fact that even genuine efforts by the Government are not recognized*”, he added<sup>4</sup>.

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<sup>1</sup> UN News Centre, *UN urges Sri Lanka to take 'credible' steps to ensure accountability for alleged war crimes, March 22, 2012.* <<http://www.un.org/apps/news/story.asp?NewsID=41608&Cr=sri+lanka&Cr1>>

<sup>2</sup> *ibid*

<sup>3</sup> Statement by Acting Minister of External Affairs, Hansard, Volume 207 - No. 10, Friday, 23rd March, 2012, p. 28-29

<sup>4</sup> Statement by Acting Minister of External Affairs, Hansard, Volume 207 - No. 10, Friday, 23rd March, 2012, p. 28-29

There were also defiant words from him, that irrespective of the decision from Geneva, the Government would not let the country roll back to the era of terrorism, but his comments seemed more an attempt to cover up the embarrassment caused to the Government by the Geneva defeat than a statement made with conviction. He also said that the people of the country had rejected the UN action.

*“The people of this country representing all walks of life, irrespective of caste, creed and ethnicity, who rallied to express their protest and dismay on the unwarranted action by the Council amply demonstrate their will to stand by the country and its democratically-elected Government, to defend their right to freedom from terrorism”,* Minister Gunasekera added.<sup>5</sup>

As to what caused Sri Lanka to lose the support of many of the countries which are its traditional allies including its closest neighbor, India, during the UNHRC vote was brought up by UNP Colombo District MP Ravi Karunanayaka on March 30, 2012 when Parliament was discussing six finance bills that dealt with tax hikes. *“Unfortunately, you all marketed yourself very poorly in Geneva. Mahinda Samarasinghe goes and tells one thing, “Yes we are going to implement LLRC”. But, you (Minister of External Affairs G.L. Peiris) are basically telling the rest of the world, “No, we are not bound by that” and today the answers are there,”* MP Karunanayaka said, referring to the Geneva resolution.<sup>6</sup>

He said one reason the country fared badly at the UNHRC session was the lack of law and order in the country, even in the post-war period.

Indeed, the March resolution against Sri Lanka is a major failure for the country’s foreign policy given the fact that on May 27, 2009, the UNHRC adopted a resolution titled “Assistance to Sri Lanka in the promotion and protection of human rights”, where 29 members of the 47-member Council voted for the resolution while only 12 voted against and 6 countries abstained.<sup>7</sup> Among the countries that supported Sri Lanka in 2009 was India.

The May 2009 resolution was considered a major diplomatic victory for Sri Lanka, as it praised the efforts undertaken by the Government after the war ended. The 2009 resolution applauded *“President Rajapaksa’s commitment to seek a political settlement of all outstanding issues via the implementation of the Thirteenth Amendment and reaffirmed the Government’s commitment to eradicating discrimination against minorities.”*<sup>8</sup>

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<sup>5</sup> Hansard, Volume 207 - No. 10, Friday, 23rd March, 2012, p. 28-29

<sup>6</sup> Hansard, Volume 207 - No. 11, 30th March, 2012, debate on amendments to six finance namely Value Added Tax Bill, Inland Revenue Bill, Nation Building Tax Bill, Ports and Airports Development Levy Bill, the Economic Service Charge Bill and the Finance Bill, Page 1662

<sup>7</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12001&LangID=E>

<sup>8</sup> The Permanent Mission of Sri Lanka to the United Nations Office at Geneva, *Emphatic Victory for Sri Lanka at Human Rights Council endorses Government Position, May 28, 2009.* <<http://www.lankamission.org/content/view/2227/1/>>

Politicians, political analysts and the media expressed many views on why Sri Lanka lost in Geneva. One factor highlighted in the media<sup>9</sup> was that the differences in opinion and divisions within the members of the Sri Lankan delegation to the UNHRC March sessions in Geneva had contributed to the failure by the Sri Lankan Government to successfully canvass adequate support from among the members of the Council to defeat the resolution.

The Sunday Times exposed the rift in the Government rank, on the subject, in its piece titled, "**Peiris-Samarasinghe differs in Geneva as US talks tough.**"<sup>10</sup> The newspaper reported that in a call made to President Mahinda Rajapaksa on February 22, 2012 from Geneva, External Affairs Minister G.L. Peiris complained about his ministerial colleague Mahinda Samarasinghe who apparently was not 'co-operating' with him. "He alleged that Samarasinghe, who is the President's Special Envoy for Human Rights, did not share any documents and was functioning 'independently'", reported the newspaper.

On March 30, 2012, when Minister G.L. Peiris came to Parliament after his return from Geneva he briefly addressed the issue of the UN resolution by putting a brave face and interpreting the UNHRC vote in a positive note. He said that delegates of several countries that voted against Sri Lanka had privately told him that they were forced to do so due to political reasons, especially countries in the European Union (EU) who were forced to vote en bloc due to being members of the Union. "*The Government has been consistent in its opposition to any attempt to bring a resolution against Sri Lanka and even if we lost the vote, we did not betray the country*", Minister Peiris said.<sup>11</sup>

Pressure on Sri Lankan Government did not seem to wane after the resolution was adopted. A day later on March 23, 2012, the United Nations High Commissioner for Human Rights, Navenethem Pillay, urged that there must be no reprisals against Sri Lankan human rights defenders in the wake of a resolution, calling on its Government to probe alleged abuses during the country's civil war. "*During this Human Rights Council session, there has been an unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan government delegation*", said Ms. Pillay's spokesperson, Rupert Colville, at a press briefing in Geneva.<sup>12</sup>

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<sup>9</sup> The Sunday Times, Peiris-Samarasinghe differs in Geneva as US talks tough, March 4, 2012.

<sup>10</sup> The Sunday Times, *Peiris-Samarasinghe differs in Geneva as US talks tough*, March 4, 2012. <<http://sundaytimes.lk/120304/Columns/political.html>>

<sup>11</sup> Hansard, Volume 207 - No. 11 Friday, 30th March, 2012, p. 24

<sup>12</sup> UN News Centre, *Senior UN official warns against harassing Sri Lankan human rights defenders*, March 23, 2012. <<http://www.un.org/apps/news/story.asp?NewsID=41617&Cr=Sri>>

## **Conclusion**

As the Geneva resolution came towards the end of March, Parliament did not have adequate time to dissect the long-term repercussions it would have on the country in depth, but following requests by opposition legislators it was agreed to hold two days of special sittings in April to discuss the UNHRC resolution. While the Government put on a brave face in the aftermath of the defeat, the resolution has indeed opened the door for international players to involve themselves in human rights issues in the country in the future, particularly if the issues of concern on rights *violations* are not immediately addressed.