



Asia-Pacific Centre for the Responsibility to Protect

Update Report: Japan and the Crisis in Sri Lanka

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Executive Summary

As the Asia-Pacific Centre for the Responsibility to Protect noted in its October 2008 report on Japan and Korea on the Responsibility to Protect (R2P), Japan is a supporter of the R2P principle which it sees as part of the broader human security agenda, a key pillar of Japanese foreign policy.¹

However, Japan has recently been criticised for ‘most surprisingly and disappointingly’ opposing UN Security Council engagement in the humanitarian crisis that has been unfolding in Sri Lanka.² Japan’s position appears to run counter to its support for human security and commitment to civilian protection, which has resulted in pressure for Tokyo to take a more robust stance by supporting efforts to introduce the situation in Sri Lanka onto the official agenda of the UN Security Council.³ The following Update Report offers an overview of Japan’s engagement in the crisis and seeks to contextualize the concern that Japan is falling short of following through on its responsibility to assist in protecting civilians at risk in Sri Lanka.⁴ It demonstrates that Japan’s position must be understood in relation to its commitment to the Sri Lankan peace process and broader Council dynamics.

Sri Lanka and the Security Council Agenda

The protracted conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) has drawn increased international attention since fighting escalated in late January 2009. Alarmed by reports of the ongoing and impending peril of civilians trapped in the crossfire between the two forces, concerned UN Member States and non-governmental organizations (NGOs) have increased pressure on Security Council members to formally address the situation. The Security Council has yet to adopt the situation as an official agenda item, despite concerted efforts to reach an agreement on formal deliberations.

Japan was one of the early proponents of engaging the UN Security Council on Sri Lanka. In the weeks leading up to its Council Presidency in February, Japan joined Mexico in pushing for Council discussions of the matter.⁵ Aware of tensions within the Council regarding the possibility of even informal discussions, in mid February Japan's Ambassador Yukio Takasu accepted a request to mediate informal consultations on developing a common understanding on putting the matter on the Council's agenda.⁶ Russia's position posed the biggest obstacle to the Council entering discussions on the situation in Sri Lanka in any capacity. However, under Japanese mediation, Russia dropped objections to the Security Council discussing the situation and a compromise was reached to permit informal discussions and briefings.⁷

As a tangible display of this compromise, Under-Secretary-General for Humanitarian Affairs, John Holmes, first briefed the Council in an informal session under 'other matters' on 27 February. Holmes' briefing was followed by renewed heated debate on whether Sri Lanka should be put on the Council's formal agenda. Russia continued to voice the most vocal opposition, backed by Viet Nam.⁸ In the report to the press following Holmes' Council briefing, Ambassador Takasu alluded to a lack of consensus that prevented the inclusion of Sri Lanka as an official agenda item, but noted that 'the briefing and subsequent discussion among members was extremely useful; everyone seems to accept that this is probably the most appropriate way to handle this matter'. Despite refraining from advocating that the Council enter into formal discussions, Takasu averred that the government of Japan is 'very actively involved in the peace process'.⁹

A second Council briefing was held 26 March 2009 in a room in the basement of the UN with all Council members present along with Sri Lanka's Permanent Representative.¹⁰ Holmes briefed the Council on the deteriorating humanitarian situation. After the briefing, the UK's Permanent Representative, John Sawers, again acknowledged that Sri Lanka was not on the official agenda of the Council, but noted that 'we are of course concerned with issues of the protection of civilians in conflict as well as concerned with dealing the terrorist organizations, of which the LTTE is one'.¹¹ A similar unofficial basement briefing by Catherine Bragg, Assistant Secretary-General for Humanitarian Affairs, was held on 22 April. All members once again accepted the briefing, with China and Viet Nam agreeing to discuss the situation provided that the government of Sri Lanka did not object. All Asian members of the Council—China, Japan and Viet Nam—expressed reluctance to issue any sort of statement after the briefing.¹²

Although no official statement was issued, in informal comments to the press following the Council's meeting, then President of the Council, Claude Heller of Mexico relayed the Security Council's 'deep concern about the humanitarian situation and the plight of civilians trapped'. He noted that Security Council members 'strongly condemn the LTTE terrorist organisation for the use of civilians as human shields and not allowing them to leave the area of conflict', and relayed that the Council members 'demand that the LTTE immediately lay down arms, renounce terrorism, allow a UN assisted evacuation of the remaining civilians in the conflict area and join the political process through dialogue in order to put an end to the conflict'. Heller further conveyed that the Security Council members 'urge all parties including the government of Sri Lanka to abide by their obligations under international humanitarian law and to allow international humanitarian agencies access to those affected by the fighting'. Finally, Heller noted that the Council 'stressed the importance of the United Nations role in assisting the Sri Lankan government in attending the present humanitarian crisis' and conveyed that the Council expected the Sri Lankan government to support the UN team that is in the field.¹³ When pressed, Heller characterised his address as 'informal' comments to the press rather than a press release, and reaffirmed that Sri Lanka would remain off the Council's official agenda due to a lack of consensus about the matter.

The Council issued its first official statement on the situation on 13 May 2009.¹⁴ Speaking on behalf of a unanimous Security Council, Council President Vitaly Churkin of Russia echoed earlier informal comments to the press. Churkin conveyed the Council's 'grave concern' over the worsening humanitarian crisis, and called for immediate efforts to ensure that trapped civilians are safely evacuated from the conflict zone. The Council condemned the LTTE for acts of terrorism and the use of civilians as human shields and demanded that the organization 'lay down its arms' and permit civilians to escape the conflict zone. Expressing 'deep concern' over the use of heavy artillery aimed at civilian-occupied areas, the Council demanded that the Government and all parties adhere to their obligations under international humanitarian law. The Council likewise called on the Government of Sri Lanka to fully cooperate with the United Nations, ICRC and other international humanitarian organizations to provide humanitarian relief and access to IDPs. Although Russia, China, Libya and Viet Nam were reticent to issue a press release, they dropped objections after Western Council members compromised on discussing a UN report on Israel's actions in Gaza in January.¹⁵

Based on the commentary surrounding the Council's meetings on the humanitarian crisis in Sri Lanka, there is clearly a deep divide among members over the appropriate level and mode of engagement on the situation. As entering into formal discussions falls under procedural rules for the Council wherein the Permanent Members are not permitted to cast a veto, the situation in Sri Lanka could be added to the Council's agenda by nine affirmative votes regardless of the position of Permanent Members.¹⁶ However, more activist states are reluctant to push the Council to a vote in this regard.¹⁷ Those lobbying for formal Council discussions appear to have reservations about pushing too hard for fear of hardening positions that could later result in an even less favorable situation of vetoed resolutions, similar to the failed resolutions on Myanmar and Zimbabwe. Members who are firmly opposed to formal discussions refuse to cede much ground, due in part to objections over double standards and a concern that the official inscription of a situation on the Council's agenda is the first

step on a slippery slope leading to a forced vote on an unpopular resolution.¹⁸ In short, competing interests and mutual apprehension hinders efforts to formally introduce the situation in Sri Lanka on the Council's agenda.

For its part, Japan has been altogether supportive of informal Council meetings on Sri Lanka, but has not advocated for Sri Lanka to be added to the official agenda. Insofar as relegating the situation to informal discussions effectively limits the opportunity for the Council to push for stronger action, Japan's position is troubling. However, it should be noted that Japan has not been the most outspoken opponent and was an early and key supporter of moves to have the Council discuss the situation. Although the precise nature of Japan's present reservations is unclear, the Japanese delegation has noted that they prefer to reach a consensus on putting Sri Lanka on the formal agenda rather than forcing a vote to include it without the support of Permanent Members, and that show of unity has not yet been forthcoming.¹⁹

Japan's Involvement in Sri Lanka's Peace Process

Japan's objections to Sri Lanka becoming an official agenda item does not reflect a lack of engagement on the peace process or concern for the humanitarian situation. Japan has been deeply involved in the peace negotiations since Yasushi Akashi was named special peace envoy to Sri Lanka in 2002, when Japan took a hands-on approach to carrying forward the Norwegian-brokered peace process. Following through on its commitment, in 2003 Japan hosted a donor conference for aid to rebuild Sri Lanka. A four-nation group which included Japan, the US, Norway and the EU co-chaired the Tokyo conference. Since dubbed the Tokyo Co-Chairs, the group has continued to comprise some of the most active stakeholders in the peace process, and they have maintained frequent contact to discuss developments in light of the recent deteriorating humanitarian situation.²⁰

Japan has been quite active in addressing the situation in Sri Lanka through the Co-Chairs. In the weeks running up to Holmes' first Council briefing on 27 February, Japan convened a breakfast meeting with Akashi, who was in New York after his 21-25 January trip to Sri Lanka. The Japanese delegation organised for the Tokyo Co-Chairs, a number of Member States and representatives from Sri Lanka to meet with Akashi to discuss the peace process.²¹ The Ministry of Foreign Affairs of Japan issued a statement on behalf of the Tokyo Co-Chairs in which they jointly expressed their 'great concern' about the plight of internally displaced persons (IDPs), called on the LTTE and government of Sri Lanka not to fire into no-fire zones and urged the parties to respect international humanitarian law. The Co-Chairs further called on the LTTE and government of Sri Lanka to resume discussions and declare a temporary no-fire period. They also vowed to work with the government of Sri Lanka, India and the UN to assist IDP transfer to temporary camps and pledged to assist in ensuring an inclusive dialogue aimed at securing a political settlement for lasting peace.²²

Akashi was dispatched for his seventeenth visit to Sri Lanka on 30 April. During this visit he met with Sri Lankan Foreign Minister Rohitha Bogollagama. Akashi emphasised Japan's concern for the welfare of IDPs, encouraged the government to cooperate with UN agencies and the International Committee of the Red Cross (ICRC) and to be more transparent in its response to the situation by providing more access to the international community. Akashi also met the Minister of Resettlement and Disaster Relief Services, toured Kadirgamar and Ramanathan IDP camps to talk firsthand with IDPs, and met with President Mahinda Rajapaksa to, inter alia, discuss the reintegration process for displaced persons. Sri Lanka's largest international donor, Japan used Akashi's visit to pledge a further US\$4 million to be disbursed by UN agencies to assist in greater transparency in dealing with IDPs.²³

Conclusion

Japan's reluctance to push for the Council to officially incorporate the crisis in Sri Lanka onto its agenda indeed requires further explanation, but is more likely a product of political calculations about the best way to proceed than of disinterest or a determination to block international engagement. Japan's long history of engagement in the peace process and its ongoing activities through the mediation efforts of the Tokyo Co-Chairs should not be overlooked. Nor should its clout in the Security Council be overestimated, particularly in light of the relative reluctance of the P3 to push hard on the issue and the outspoken resistance of, among others, Russia and China. Because of the clear lack of consensus within the Security Council, Japan seems to prefer pressuring the Sri Lankan government bilaterally or through the Tokyo Co-Chairs, and is adamant that a political answer is the only long term solution. As a member of the Security Council, Japan bears special responsibilities in relation to R2P. However, Japan's position must be understood in relation to broader Council dynamics and should be assessed with a clear view of the value formal discussions will add. In other words, proponents of adding Sri Lanka to the Council's formal agenda need to show that a positive consensus is possible and that this avenue is likely to deliver better results in terms of protecting civilians than other avenues. Without these considerations, advocates may frustrate and isolate a government which has consistently championed human security and has been deeply involved in the Sri Lankan peace process.

References

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- ² Gareth Evans, 'Falling Down on the Job: the UN Security Council's Shameful Failures in Sri Lanka', *Foreign Policy*, 01 May 2009. ; Steve Crawshaw, 'An Urgent Need for UN Action on Sri Lanka', *The Huffington Post*, 06 May 2009.
- ³ Joint Letter to the Prime Minister of Japan, International Crisis Group, 11 May 2009.
- ⁴ 'Press Conference on the Situation in Sri Lanka', United Nations Department of Public Information, 22 April 2009.
- ⁵ 'Sri Lanka', Security Council Report, 26 February 2009.
- ⁶ 'Informal Comments to the Media by the President of the Security Council and Permanent Representative of Japan, H.E. Yukio Takasu, on the Situation in Sierra Leone and other matters.' 09 February 2009, UN Media Stakeout: Webcast Archived Video. (author's transcript)
- ⁷ James Bone, 'UN Security Council Fight for Sri Lanka', *The Times*, 28 February 2009.
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- ¹⁰ 'Sri Lanka', Security Council Report, 26 February 2009.
- ¹¹ 'Informal Comments to the Media by the Permanent Representative of the United Kingdom, H.E. Sir John Sawers, on the Situation in Sri Lanka.' 26 March 2009, UN Media Stakeout: Webcast Archived Video. (author's transcript)
- ¹² 'Update Report No. 5 Sri Lanka', Security Council Report, 21 April 2009.
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- ¹⁴ SC/9659, "Security Council Press Statement on Sri Lanka," (United Nations Security Council, 13 May 2009).
- ¹⁵ Evelyn Leopold, 'Sri Lanka: Un Security Council Makes Its First Move,' *The Huffington Post*, 13 May 2009.
- ¹⁶ The situations in both Myanmar and Zimbabwe were introduced to the Council's official agenda despite the opposition of, inter alia, both Russia and China.
- ¹⁷ 'Activist' states include the European members of the Council with the support of the United States.
- ¹⁸ Matthew Russell Lee, 'On Sri Lanka, Japan Wants UN Briefing, Austria Concerned about Killing by Both Sides', *Inner City Press at UN*, 24 March 2009. Lee cites UK Minister David Miliband and Marty Natalegawa, Indonesian Ambassador to the UN and former Security Council member during the failed Myanmar and Zimbabwe resolutions to represent the respective positions.
- ¹⁹ Matthew Russell Lee, 'On Sri Lanka, Japan Wants UN Briefing, Austria Concerned about Killing by Both Sides', *Inner City Press at UN*, 24 March 2009. Although Japan has not supported formal Council meetings, its reluctance is far less of an

impediment to action that the firm opposition of both Russia and China. Without the support of both delegations, a shift in Japan's position would have limited impact on Council action.

²⁰ 'U.S. Statement Regarding Tokyo Co-Chairs Call on Sri Lanka, Statement by Robert Wood Acting Department Spokesman', US Department of State, Washington, DC, 25 April 2009.

²¹ 'Informal Comments to the Media by the President of the Security Council and Permanent Representative of Japan, H.E. Yukio Takasu, on the Situation in Sri Lanka'. 27 February 2009, UN Media Stakeout: Webcast Archived Video. (author's transcript)

²² 'Statement by the Tokyo Co-Chairs', Ministry of Foreign Affairs of Japan, Tokyo, 3 February 2009.

²³ 'Foreign Minister Appreciates Japan's Continued Support for IDP Relief', *Government of Sri Lanka*, ReliefWeb, 06 May 2009. , Chathuri Dissanayake, 'Japan Pledges US\$4m in Emergency Humanitarian Aid', *The Sunday times*, 03 May 2009.



The Asia-Pacific Centre for the Responsibility to Protect's mission is to advance the Responsibility to Protect principle within the Asia-Pacific Region and worldwide, and support the building of capacity to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

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