



March 6, 2013

**Prime Minister Shinzo Abe**

Cabinet Secretariat, Government of Japan  
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**Re: Visit of Sri Lankan President Rajapaksa**

Dear Prime Minister,

In anticipation of Sri Lankan President Mahinda Rajapaksa's upcoming visit to Japan on 12-15 March 2013, Human Rights Watch, Amnesty International, and the International Movement Against All Forms of Discrimination and Racism (IMADR) are writing to ask you to raise concerns about the poor human rights situation in Sri Lanka with the President and to issue a public statement about your concerns.

During the final months of the armed conflict with the Liberation Tigers of Tamil Eelam (LTTE) in 2009 and since, the human rights record under the administration of President Rajapaksa has been abysmal. Impunity for past abuses has continued and democratic space for media, civil society and opposition has been severely narrowed. Despite credible allegations by both the United Nations Secretary-General's Panel of Experts and the government's own Lessons Learnt and Reconciliation Commission (LLRC) of numerous violations of international human rights and humanitarian law, the government has undertaken no serious investigations or prosecutions.

Because of the Sri Lankan government's unwillingness to address these concerns, the UN Human Rights Council adopted a resolution in March 2012 that called on Sri Lanka to implement the LLRC recommendations. Although the Sri Lankan government in July 2012 unveiled a "National Action Plan," supposedly to implement the LLRC recommendations, it addresses only some of the LLRC recommendations and delegates implementation to domestic institutions with a vested interest in thwarting accountability. The Action Plan has led to no significant improvements in the human rights situation, nor any steps to end impunity.

In light of the government's failure to address justice and accountability, our organizations have called for an independent international investigation into violations of international human rights and humanitarian law committed by both sides during the final months of the armed conflict.

**Failure of Justice and Accountability for Serious Violations during the Conflict**

As you know, the Sri Lankan army defeated the LTTE in May 2009 after a 26-year conflict that took tens of thousands of lives. Throughout the conflict, both sides committed serious violations of international human rights and humanitarian law.

Several independent institutions, including the United Nations Panel of Experts in its April 2011 report, Human Rights Watch, Amnesty International, IMADR and others, have reported credible allegations of war crimes and other serious human rights abuses committed by government forces and the LTTE during the armed conflict. However, the authorities have not reported any criminal prosecutions for serious rights abuses committed during the final years of the conflict. Indeed, thus far impunity for these abuses has been total.

In light of the failure of the Sri Lankan government to deliver justice, the UN Human Rights Council in March 2012 adopted a resolution (A/HRC/19/L.2/Rev1) regarding reconciliation and accountability in Sri Lanka. The resolution called upon the Sri Lankan government to fulfill its legal obligations toward justice and accountability, expeditiously provide a comprehensive action plan to implement the recommendations of the LLRC, and address alleged violations of international law. It also encouraged the Office of the UN High Commissioner for Human Rights and other UN human rights envoys to assist Sri Lanka in implementing these steps.

Sadly, in spite of this resolution, the Sri Lankan government has still taken no significant steps to ensure justice and accountability. In its January 2013 update on its 2012 National Action Plan, the government reported that it had taken steps to implement the LLRC recommendations, yet it provided no evidence that meaningful actions had been taken. Speaking at the current HRC session in Geneva, the Sri Lankan representative stated that the government had made significant progress on investigating the January 2006 killings of 5 students in Trincomalee and the August 2006 killing of 17 aid workers in Muttur, but again did not provide any evidence about what progress had been made. Instead of documenting results, the government representative essentially threatened the international community by saying that the HRC resolution was negatively affecting peace and reconciliation, again without offering any support for this claim.

The government's response to demands for accountability has been to deny the allegations rather than investigate. For example, when Human Rights Watch released its February 26, 2013 report (<http://www.hrw.org/node/113790>) detailing 75 cases of sexual violence and other torture against ethnic Tamil detainees at the hands of government security forces, including many post-conflict cases, the government simply denied all the allegations. It publicly suggested that Human Rights Watch was sympathetic to the LTTE despite the organization's long history of critical reporting on the LTTE, which have been posted on the Defence Ministry's website. Were the government truly interested in these citizens' welfare, it would impartially investigate the allegations instead of simply dismissing them.

### **Deterioration of the Rights Situation in 2012**

The end of the armed conflict in 2009 sadly did not mean an end to serious violations of human rights by the Sri Lankan government. The situation has increasingly worsened over the last year. The Rajapaksa administration increased its control over the legislative and judicial branches of government and decreased democratic space. In late 2012, the government effectively eliminated the independence of the Supreme Court by orchestrating the impeachment of the chief justice after she ruled a government-sponsored bill to be unconstitutional. The impeachment hearings, conducted by a parliamentary committee consisting largely of members loyal to the government, were riddled with due process concerns and were ruled by both the Supreme Court and the Court of Appeals to be unconstitutional. President Rajapaksa simply ignored these court findings, and quickly installed a political ally

with a long record of rejecting accountability for conflict abuses as the new chief justice.

Freedom of thought and expression, a central tenet of your "Five Principles to Build the Future," remains under assault in Sri Lanka. Government officials and state-owned media publicly threatened civil society and human rights activists who spoke in favor of the March 2012 Human Rights Council resolution. Their names and faces were publicized and they were branded as traitors. The government took no action against a cabinet minister, Mervyn de Silva, who publicly threatened activists that expressed support for the resolution.

The government shut down at least five news websites critical of the government in 2012 and put in place onerous registration requirements and fees for all web-based media services. Many news websites moved their host proxies abroad to avoid censorship. Frederica Jansz, then editor of the *Sunday Leader* newspaper, reported that Defence Secretary Gotabhaya Rajapaksa threatened her in July when she criticized his decision to reroute a government plane in order to pick up a puppy from Switzerland.

Independent civil society members, human rights workers, and journalists continue to report threats, intimidation, and harassment, particularly in the north and east of the country. Our organizations have talked to people who live, work, and travel in these areas who describe living in a state of surveillance and fear. People are afraid to report abuses to the largely Sinhala-speaking security forces, and impunity for ongoing abuses continues to thrive. Human rights defenders have told us that it is very difficult to conduct safe interviews with victims, which in turn makes reporting impossible.

### **Recommendations to the Japanese Government**

In light of the failure of the Sri Lankan government to implement last year's Human Rights Council resolution on accountability or indeed to take any meaningful action on its own to improve the human rights situation in the country, **we believe that the only way to achieve genuine progress on justice and accountability is for the Human Rights Council to adopt a resolution calling on the Office of the High Commissioner for Human Rights (OHCHR) to conduct an independent investigation into allegations of serious violations of international human rights and humanitarian law by both sides to the conflict.**

In February 2013, High Commissioner for Human Rights Navi Pillay issued a report that criticized the Sri Lankan government for its failure to investigate allegations of both conflict-related and ongoing abuses. The report called for the need to have an international independent investigation into accountability in Sri Lanka because of the government's failure over the last year to meaningfully address the issue.

The United States has announced that it will again sponsor a resolution on Sri Lanka at the 2013 Human Rights Council. The Indian government has publicly stated that India will support the resolution. **We urge your government to likewise support the resolution, and to make this support known to President Rajapaksa during his visit to Japan.**

**We also urge you to call on President Rajapaksa to take all necessary measures to ensure his governments respects the rights to freedom of expression, assembly and association, to restore the independence of the judiciary and other independent**

**institutions, such as the National Human Rights Commission, and to promptly implement the recommendations contained in the reports of the UN Panel of Experts, the LLRC, and the OHCHR.**

President Rajapaksa and his government assert that international action is unwarranted and that justice must be “home-grown.” In response to this, **we urge you to remind the president that he has had nearly four years since the end of the conflict to deliver justice and to end impunity but he has failed to do so. We also urge you to remind the president that Japan raised the issue of enforced disappearances during the UPR review in 2008.** The government of Sri Lanka has not prosecuted anyone or taken action against ongoing enforced disappearances. Furthermore, the government rejected a recommendation at the 2012 UPR to comply with the request of the UN Working Group on Enforced or Involuntary Disappearances to visit Sri Lanka. It is clear that the Sri Lankan government has no intention of acting on its own and that vague promises are simply a device to buy time and forestall international action.

We appreciate that during your last tenure as prime minister, your then-foreign minister, Mr. Taro Aso, raised human rights concerns in Sri Lanka during a meeting with his counterpart. Mr. Aso added that this was an issue of growing concern for the Japanese people, and he wanted Sri Lanka to deal with the situation appropriately since the deterioration of security would cause a decrease in private investment and the number of tourists, and also could affect economic cooperation.

Unfortunately, the end of the war has not brought an end to grave violations of human rights by government security forces. When a government fails to provide justice for its own people, it is important that concerned and influential governments take action to address the problem. Japan, as the largest donor to Sri Lanka, is uniquely positioned to take a leading role in helping to bring that justice and improving respect for human rights for all Sri Lankans.

We would be pleased to meet and discuss these issues further at your convenience.

Yours sincerely,

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Japan Director, Human Rights Watch

Hideki Wakabayashi  
Executive Director, Amnesty International Japan

Yuriko Hara  
Secretary-General, IMADR