

Sri Lankan Boat Migration to Australia

Motivations and Dilemmas

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Over the past 18 months, Sri Lankans have boarded boats for Australia in record numbers. Stories from boat migrants depict complex political and economic motivations for their journeys, contrary to the statements by both governments that the boats are filled solely, or primarily, with “economic migrants”. In fact, the economic concerns that are motivating people are themselves inextricable from political problems, persecution and other forms of discrimination and injustice. Rumours of the Sri Lankan government’s complicity in people-smuggling operations create a dilemma for the Australian government, whose survival at this year’s federal election depends on stopping the boats.

In 2012, a record 6,412 Sri Lankan people made the journey by boat to Australia (boat migrants) without passing through an official Sri Lankan port, including over 1,000 Sinhala people.¹ In the same year, the Sri Lankan authorities claim to have intercepted over 3,000 Sri Lankans en route to Australia.²

The numbers have continued to rise in 2013, with over 1,730 Sri Lankans arriving in Australia to July (Doherty 2013a). This is a record number of Sri Lankan migrants in Australia. Even during 2009, at the end of Sri Lanka’s civil war, Australia received only 736 Sri Lankan boat migrants (UNHCR 2012b). During 2011 only 211 Sri Lankans arrived in Australia by boat (ibid). In 2012, for the first time Sri Lankans comprised the biggest single national group among boat arrivals in Australia,³ this too in a year in which Australia received the largest number of boats on record. During the same period, asylum applications from Sri Lankans dropped in Canada, France, Germany, the United Kingdom and the United States.⁴

Four years after the end of Sri Lanka’s civil war, it is difficult to pinpoint what has caused this sudden and exponential surge in boat migrants to Australia. Why are so many Sri Lankans choosing to make this journey now? Are they escaping ongoing conflict and persecution inside Sri Lanka? Are they simply looking for economic betterment abroad? Why has Australia arisen as the most popular destination for Sri Lankan boat migrants?

Rhetoric of Economic Migration

If you believe the rhetoric of governments, the boats are full of “economic migrants” simply seeking jobs and higher living standards in Australia. According to Sri Lanka’s high commissioner to Australia, Thisara Samarasinghe, the boat migrants are not fleeing persecution, but are economic opportunists seeking a better life.⁵ Likewise, Sri Lanka’s minister for external affairs, G L Peiris, says that the boat migrants are “certainly not political refugees because there is nothing to run away from” (Richardson 2013).

The Australian government, managing competing electoral, legal and moral imperatives to stop the boats arriving, whilst complying (or at least wishing to be seen to comply) with its obligations under the Refugee Convention, has been only slightly less emphatic. The Australian minister for foreign affairs, Senator Bob Carr, has said in relation to all boat arrivals in Australia that they are all or primarily economic.⁶ Jose Alvarez, Australian immigration’s south Asia director,

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described Sri Lankan boat migrants as “economic refugees”, saying that the majority of Sri Lankan boat migrants arriving in Australia from Sri Lanka had economic reasons for their journey (Alvarez 2012).

The claims of Carr and Alvarez have no basis in relation to Sri Lankan boat migrants. An overwhelming majority of Sri Lankan boat migrants have claimed asylum on arrival in Australia and none of the people who arrived after August 2012 have had their claims processed (Hall 2013).⁷ Historically, 90% of boat arrivals in Australia are found to be refugees.⁸

Admittedly, Australia has forcibly returned nearly 1,000 Sri Lankans for apparently failing to articulate a refugee or broader complementary protection (torture or mistreatment) claim upon arrival. However, this is still a small proportion of all the Sri Lankan arrivals and there is also a controversy about how the government assessed the returnees’ claims. Critics point out that the returnees did not have a proper refugee status determination and that the assessment process they faced was secret, truncated, with the applicant having no access to lawyers and the decision to deport them not subject to review (HRLC 2013).

Clearly some of the boat migrants may have purely economic reasons for leaving Sri Lanka. But it is simply too early to discount the numbers of refugees among the boat migrants or to assert any empirical or evidential basis for doing so.

Motivations of Recent Migrants

What do we know about the motivations of recent migrants? I recently travelled to Sri Lanka and met people who were intercepted by Sri Lankan authorities en route to Australia. Their stories provide an insight into some of their reasons for departure. They demonstrate that the economic concerns that are motivating people are themselves inextricable from the effects of the war, post-war struggles, political problems, persecution, systemic discrimination and other forms of injustice.

Brami⁹ is a Tamil woman living in a militarised area of the northern province who tried to leave Sri Lanka by boat with her three children, but was intercepted en route by Sri Lankan authorities. Brami is one of an estimated 40,000 women living in a female-headed household in the country’s former conflict zones.

When asked why she tried to leave, Brami initially stated that it was for the future of her children, to support their education, and because of her fears of being home alone without her husband. Brami described her concerns as “commonplace”. However, after further discussions, Brami disclosed that her husband had been “disappeared” five years earlier, taken from their home and not seen again. Since that time, the Sri Lankan Criminal Investigation Department (CID) visited every month and, they would “stay a short time if my children were there but longer if they were not. They would call me and ask to go somewhere, that kind of thing”. CID has her phone number and she gets “midnight calls” where they “talk rubbish”. In Brami’s words, “They know I am alone so they are trying to get a benefit”.

Although Brami characterised herself as an economic migrant with the same commonplace fears of many women in

female-headed households, she also indicated physical and probably sexual harm at the hands of the police that regularly visit her home.¹⁰

Kedish, a young Tamil man in the Vanni area of Sri Lanka’s northern province, also tried and failed to go to Australia to improve the financial situation of his family. Kedish’s family had been displaced multiple times during the final phase of the war and then held in Menik Farm for nearly a year. Before the war, his family had a paddy field, a house and vehicles but after returning from Menik Farm, he found just a few coconut trees and bushes; everything else had been destroyed in aerial attacks and the blasts had created big holes in his land. “In my family there are three girls and two boys. After the displacement we lost so much and had no money to live. I want to go abroad to earn money for my family,” he said. His house and land were so destroyed that it was difficult for him to locate it when he returned. Kedish tried to migrate because of his economic loss. “Earlier we were wealthy people and now I feel like poor people so I want to leave”, he said.

Kedish now lives in a militarised area of the Northern Province under a tarpaulin, in fear of war returning. He also fears for his sisters’ safety; they are vulnerable living among the high numbers of military officers in the area. “There is a narrow road to home and the military are on both sides. They tease women as they pass. In the evening the girls do not go out,” he said. Sending a family member abroad to earn money is not seen merely as a matter of economic survival but as a requirement for safety. “I want to look after my sisters. It is not a sustainable situation in Sri Lanka. If conflict comes, we will be displaced again. If a member is abroad it will safeguard us”, Kedish said.¹¹

Unsurprisingly, former Liberation Tigers of Tamil Eelam (LTTE) combatants are also among the boat migrants. The Sri Lankan government says, it has now “rehabilitated” 11,770 male and female ex-cadres who surrendered to security forces at the end of the war. Rehabilitation involves detention in rehabilitation centres without judicial oversight or legal representation for the detainees, followed by ongoing monitoring by local security forces upon release, when ex-cadres return to their villages.¹²

Some ex-combatants feel threatened because they are monitored by the security forces and harassed by frequent visits to their homes. Moreover, they have to report at the local military bases for questioning. In addition, they also face difficulty getting financial loans or employment opportunities because of prejudice or fear in the community.

In January 2013, the Jaffna High Court acknowledged that private firms are reluctant to employ the rehabilitated former LTTE cadres and that banks are reluctant to provide them loans. This discrimination, the court said, leads to economic disadvantage that causes people to leave the country illegally with the hope of making a better future.¹³

Continuing Insecurity

It is not just “rehabilitated” ex-combatants either. One young former LTTE combatant in the eastern province said that he had tried to leave for Australia by boat because of his poor

opportunities for employment. Parathis had not fought during the final stages of the war or been “rehabilitated”. Nonetheless he had been forcibly recruited as a boy and lost those years of his youth, that might have been spent at school, in service to the LTTE. Parathis was about to graduate from university, but he was not a confident student and he believed his prospects for earning more than Rs 10,000 a month upon graduation were limited.

Parathis himself had no immediate security concerns. However, he believed that there could be war again because after three years the government had done nothing to address the grievances of Tamils. He worried that his past association with the LTTE meant that he would be the first to be blamed and targeted when the war comes. “So far [I have] no problem with the army, but a bit of concern if war comes that we will be subjected to torture”, he said. Parathis felt that only Sinhalese people get job opportunities in police and military services and that even in development projects in the Eastern Province, the unskilled workers are from other communities, like the Sinhalese or Muslims. For Parathis, this discrimination and economic exclusion of himself and other Tamil people was linked to his sense of security about the future: “I feel nervous about why we were not asked to take those unskilled jobs”.¹⁴

For others, the impact of unchecked operations of pro-government paramilitary organisations had driven them to flee. Aingkaran works as a bicycle repairman in the Northern Province. He was intercepted en route to Australia by Sri Lankan authorities. He cited economic pressures for leaving, particularly the difficulty of bringing up girls, finding a dowry and having lost his uncle in the war who had previously been a source of financial support. However, Aingkaran had also been forced to give money to “unknown people” after receiving threats by phone and a grenade was thrown into his home, killing his dogs and damaging the property. His family had given money, their vehicle and other assets that had previously provided some financial security. Despite reporting these incidents to the police, he has heard nothing further from them about any investigation into the attack on his home.¹⁵

Aingkaran’s experience is a local level illustration of the breakdown of the rule of law. At the other end are the unconstitutional impeachment of the chief justice and the beating of the president of the Judicial Services Commission, attacked in broad daylight in Colombo last year after resisting political interference in courts. There may be less outrage in Aingkaran’s case, but his economic defeat by paramilitary forces is a catalyst enough for him to seek greener, safer pastures elsewhere.

The motivations for boat migration do not always arise from fears for personal safety and security. Differential treatment of people in war-affected areas and the failure to devolve power to the Tamil-majority areas in the north and east create livelihood challenges and a sense of frustration, hopelessness and despair about any possible change in the future.

Fishermen who tried to leave Sri Lanka on boats speak about the injustice of the “pass system” for fishing and the incursion of Sinhala and Indian fishermen in local waters.¹⁶ Some Tamil

fishermen complain that although they are allowed to fish, they are unable to fish for the more lucrative catches, such as sea cucumbers, because they could not obtain a permit that enabled them to use an oxygen tank (or “cylinder”), while fishing.¹⁷ Others in the Northern Province expressed frustration at the use of their traditional fishing grounds by Sinhalese and Indian fishermen, with no protection of the fishing areas by the state and limited financial means to compete.¹⁸

A striking tone of many of the boat migrants interviewed was their hopelessness at the intractability of the situation they found themselves in. Four years after the war, many Tamil people felt no hope for peace or safety living in the northern province. “I have lost all hope that I can have a life here; there is no guarantee for life here. It is better to go to other countries so that I can live peacefully”, one man said.¹⁹ Others believed that there was no future for Tamils in Sri Lanka, with one man declaring that “in 30 to 50 years time Tamils would not be in Sri Lanka”.²⁰

Boat migration is not limited to Tamil people – 1,000 Sinhala people arrived in Australia in 2012. Even for those people, discrimination can coexist with their economic motivations. One young Sinhala man who had been forcibly returned after arriving in Australia said that his first preference had been to work overseas on a migrant workers programme, but that he had not been chosen to be in the programme for political reasons. “I passed the government exams to go to Korea but because of political problems, I was not selected. I support the opposition United National Party (UNP). It is a family tradition to support that party so I am associated with it, even though I do not actively support it or directly engage with it. I am ‘branded’ with the UNP through my ancestry”, he said.²¹

These stories highlight the inadequacy of “economic” as a label for boat migrants’ experiences. Far from being simply economic, people’s motivations are often multiple and cross a broad spectrum related to systemic discrimination, persecution or political disenfranchisement. Boat migrants expressed livelihood issues, concerns for their own and their family’s safety, fear of sexual violence, fear of being arrested and detained, discrimination in the job market, poor employment and educational opportunities, land acquisitions and exclusions, the need for medical treatment, the fear of war returning, harassment and interrogation by security forces, fear of reprisals for political activity or speech, the need to secure their family’s financial future and the need to rise above the financial hole they found themselves in. These problems were often an impact of the war or the lack of post-war assistance.

Of course, some migrants may simply be leaving for economic reasons, and if that is the case, there should be fair and mature public debate about that. But what is needed now is acknowledgement of the complex and interconnected factors that cause Sri Lankans to leave.

The Trend

In any case, an individual’s motivations for departure only tell one side of the story, viz, why they have chosen to leave now.

Sri Lanka has a long history and culture of migration, both forced as well as voluntary and documented as well as undocumented. This includes Burgher migration in the decades after Independence, Tamil migration following the 1983 riots and throughout the civil war, labour migration to Italy in the 1990s and the long history of migrant workers to west Asia since the late 1970s.²²

Australia may simply be the latest chosen destinations for Sri Lankans. But, recently, Australia's "pull" factors have not changed markedly. Australians, on the whole, continue to enjoy relative economic prosperity, and the freedom of a functioning healthy democracy. So why Australia at this time? Part of the answer does not lie with the migrants themselves. To some extent, the destination is not determined by those seeking to leave, but by those organising the transport and safe passage.

By 2012, Australia was the cheapest and easiest destination for people wishing to leave by boat to the West.²³ Passengers could pay smugglers as little as Rs 1,00,000 to Rs 3,00,000 (AUD\$824 to \$2,474) to board a boat on a promise to pay the balance on arrival in Australia. In total, boat journeys cost around Rs 8,00,000 to Rs 12,00,000 (AUD\$6,600 to \$9,900).²⁴ Australia was comparatively affordable to Europe or Canada. It is common for people to pawn their family jewellery, sell land or take a loan in order to pay for passage. People are transported in multi-day trawling boats and can sail directly to Cocos (Keeling) Islands, an Australian external territory in the Indian Ocean, in around 10 to 20 days.

During 2012, as the number of boats increased and the media covered the story, people's expectations of successful journeys also grew. One young Tamil man said: "Before I had an idea that people were going, but it was only this year that I got the particular information about how to leave. I saw on the news that people were going to Christmas Island and it was positive".²⁵

Communications and Travels

Boat agents and subagents operated openly in the villages, visiting houses to tell people of the boat opportunity. Misinformation was spread about Australia's views on the arrival of the boats. In Negombo, for example, a rumour was spread that 20,000 new jobs were available for Sri Lankans in Australia.²⁶ (This was likely a distortion of Australia's announcement that it would increase its annual humanitarian intake to 20,000 people.) As one man said, "I thought the Australian government wanted me to go. But I knew it was illegal (to leave Sri Lanka on the boat). They had announced 20,000 new jobs were available in Australia. That was the only reason that I left. All my friends were saying to go".²⁷

Boats bound for Australia departed from locations all over Sri Lanka: from Negombo in the west to Batticaloa and Trincomalee in the east, from Galle, Mirissa and Hambantota in the south to Point Pedro in the north. Boat migrants did not necessarily depart from a location near their villages; agents could arrange passage on a boat departing from the other side of the country. Migrants would often be transported

overland to the coastal town of departure where they would be housed in a guest house awaiting the call that their boat was ready to leave.²⁸

During 2012, in some pockets of Sri Lanka, going to Australia became a craze among the groups of largely young men, who sought to leave and encouraged each other to do so.²⁹ In towns such as Udappuwa in the western province, a high proportion of the young people have tried to leave for western countries (Kannangara 2012). One Tamil trishaw driver from the northern province described how all his friends in the three-wheeler business were selling their vehicles and going to Australia. "If you ask my friends, "where is your brother? I have not seen him", they would say "He's gone to Australia". I know 50 or 60 people who have gone to Australia", he said.³⁰

Miscommunications and Travails

For some, the decision was not informed or considered. "I fell into the trend of going to Australia and did not really think about it twice", said one Sinhala man who has since been returned to Sri Lanka.³¹ Another said, "In (late) 2012 everybody was going so I also took the decision to go. Earlier my friends were there and people said they were eating very well in the camps and I should come".³²

Australia has some of the toughest border protection policies in the world, with mandatory and indefinite immigration detention, offshore processing of asylum claims (including now in "regional processing centres" in Christmas Island, Papua New Guinea and Nauru) and a policy of immediately returning people who do not make a claim at first instance that raises persecution or torture concerns in their country of origin.³³ In July 2013 the Australian government announced a "Regional Resettlement Arrangement" in which all persons arriving by boats in Australia would be unable to settle in Australia and would, instead, be sent to Papua New Guinea for resettlement.

Despite Australia's increasingly draconian measures aimed at deterring boat migration, boat migrants themselves had a staggeringly low level of knowledge on what to expect on arrival in Australia. Some Tamil people were simply guided by a sense that Australia was a deeply humanitarian country that would not deport them. "I still think that the Australian government will not ask a Tamil person to go back to Sri Lanka. They would only send Muslims and Sinhalese", one woman said.³⁴ Another boat migrant said that, "Australia is known as a humanitarian country; most people are eating well, there is no problem with the journey and the Australian navy takes all people safely to Christmas Island".³⁵

Some Sinhala returnees also believed in the benevolence of the Australian government. "I had confidence in the Australian government that I would be absorbed into the Australian community. Plus I had financial problems. I only earned about Rs 20,000 (AUD\$160) per month. I thought I would get a job in Australia – I had a lot of faith and confidence in that".³⁶ Some were unaware that they would be subject to mandatory detention on arrival in Australia,³⁷ while others erroneously

believed that they could work while in Australian immigration detention centres or that the Australian government would provide an allowance.³⁸ Others did not realise that the Australian immigration detention is not an open camp, but more akin to a jail.³⁹

Word of mouth played a crucial role and migrants were encouraged by people who went before: “Those who went before kept calling to say, ‘come; conditions are good!’ Information was that we would be detained for two-three months at most, trained in various aspects and paid an enormous amount while in detention and then absorbed (into the Australian community).”⁴⁰

Border Security in Sri Lanka

It is a violation of Sri Lanka’s immigration law to leave the country other than through an official port. Boat migrants who are caught by the Sri Lankan authorities when they tried to leave Sri Lanka are taken into custody and charged with illegal migration under the Sri Lankan law. Most are granted bail, but those who are suspected of facilitating the operations are remanded and prosecuted. To its credit, the Sri Lanka’s office of the solicitor-general does not seek sentences of imprisonment in their prosecution of the passengers.⁴¹

Australia works very closely with the Sri Lankan authorities on anti-people smuggling operations. Since at least 2009, the Australian Federal Police officers have worked on the ground in Sri Lanka to support the Sri Lankan authorities’ work in this area. The Australian officials share intelligence and provide training and resources to Sri Lankan police, navy and coast guard.

In September 2011, the then Australian high commissioner to Sri Lanka, Kathy Klugman, praised the Sri Lankan security forces’ work in intercepting a “people smuggling boat”. She claimed that the effectiveness of the two countries’ coordination was demonstrated by the fact that no boat had reached Australia from Sri Lanka since November 2009 (Flitton 2011).

Despite these significant commitments by Australia, and massive increases in the budget of the defence ministry, nearly 6,500 people slipped through the net in 2012 and only around 3,000 were caught. The sheer scale of the boat migration and the openness with which agents and subagents operated in the villages raises the question: why were more boat migrants not stopped before they left Sri Lanka?

In February 2013, a report appeared in the Australian press alleging that a “senior Sri Lankan government official was complicit in people smuggling” and was effectively undermining the joint attempts to stop boats in Sri Lanka. The report alleged that Australia’s intelligence agencies had identified a “high profile” official who is “close to President Mahinda Rajapaksa”, who has “the power to ‘turn on the tap’ and unleash untold asylum boats”. It said that intelligence agencies believe this official is responsible for authorising numerous boats from April 2012 to February 2013. This, it was reported, has fuelled the surge of asylum-seekers from Sri Lanka that has threatened to overwhelm Australia’s detention system.⁴²

Another report stated that Australian officials had considered whether the surge in boat migrants to Australia might have been sanctioned at senior levels of the Sri Lankan government in retaliation against Australia’s co-sponsorship of a March 2012 Human Rights Council resolution that called for Sri Lanka to investigate allegations of war crimes committed in 2009.⁴³

No names were provided in the media reports and the Australian government rejected any claims that it had seen evidence of this corruption. Likewise, Sri Lanka denied that there was any truth to the allegations.⁴⁴

Further reports in the Australian press in March 2013 alleged that the Sri Lankan navy were involved in people smuggling operations, while at the same time, accepting Australian resources and assistance to stop that trade. The allegations were made by the Tamil National Alliance politicians, returned asylum-seekers, community leaders and non-governmental organisations. The Sri Lankan navy categorically denied any involvement by any navy personnel in the smuggling operations, dismissing the allegations as baseless (Doherty 2013b).

In April 2013, *The Island* reported that the Sri Lankan Police CID was investigating “the alleged involvement of security forces elements with a criminal gang which organises smuggling of people by boats to Australia” (Randu 2013).

The involvement of authorities, or at least some people in government or the navy, in people smuggling cannot be discounted as a possibility. Like many countries, Sri Lanka struggles to contain corruption. In a survey of public perceptions of corruption conducted by the Transparency International, more than 50% of the Sri Lankan respondents felt that corruption was on the rise and 23% had paid a bribe in the previous year. Political parties and the police were viewed as the institutions most likely to be corrupt (Transparency International 2011).

Human smuggling by boat is also not new. A report prepared for the International Organisation for Migration calculates that human smuggling by boat started in 1994, with unofficial Sri Lankan government figures estimating that by 2002 around 2,000 Sri Lankans were smuggled out, mostly to Italy.⁴⁵ The LTTE operated an extensive international maritime network through which it smuggled arms, and some say people and narcotics, into and out of the areas that it controlled.⁴⁶ The power vacuum left by the LTTE’s defeat provides an opportunity for newcomers. However, no evidence has come to light that would categorically link the government or the navy with the boat smuggling.

Nonetheless, among people who are trying to leave Sri Lanka on boats, there is a widespread belief that the navy and the government either operate the smuggling or condone it. As one man in the Northern Province said, “Last year people did not know about the boats but now the agents are starting to function better. This year the military is supporting the operations.”⁴⁷ Some of the people intercepted by the navy at sea believed that they were caught because their boat had not paid the navy appropriately.⁴⁸ As one man said, “The navy is

giving much support for the agents. If the agents fail to pay the navy then they cannot leave; the military will stop you".⁴⁹

Whether the rumours are true or not, they are so widely believed that it created the impression among some boat migrants that there was a "safe" passage through to Australia as long as you got on a boat that was sanctioned by the navy.

Some Tamil people believe that the Sri Lankan government is involved in the smuggling because it wants them to leave. One Tamil man who had been intercepted by the Sri Lankan navy en route to Australia and detained in Negombo said that, he believed that the Sri Lankan government tacitly supported Tamils to go to Australia. "In prison in Negombo, the police told me that I should go to Australia. I think the government wants the young people to go...Those who leave from here are all Tamils – the military are more concerned to catch the Sinhalese. I think they want the Tamils to go abroad," he said.⁵⁰

Paradigm of Economic Migration?

The rumour of the Sri Lankan government's involvement in boats only adds headache to the Australian government's foreign affairs and domestic immigration policy.

In Australia, the arrival of record numbers of asylum-seekers by boat has become a political catastrophe that threatens to bring down the Rudd government in national elections to be held this year. The prevailing political climate is one in which the two main parties compete for the harshest, most restrictive policies to punish and deter boat migrants. This is not new. The 2001 Australian federal election is widely believed to have been won by the then Howard government on the back of its seizing of the *M V Tampa*, a Norwegian freighter that had rescued 400 asylum-seekers at sea, and the subsequent implementation of the Pacific solution in which new arrivals were sent offshore for processing in Pacific islands.

Since the boats began to arrive in large numbers in 2012, the Australian government reintroduced the Pacific solution, a policy abandoned nearly five years earlier.

Australia's border security cooperation with Sri Lanka to stop boats before they leave is seen by the Australian government as a key plank in slowing the number of boat arrivals. In terms of Australia and Sri Lanka's bilateral relations, it has emerged as the pre-eminent, if not the primary concern. Australia has become increasingly reluctant to engage critically with Sri Lanka on human rights issues for fear of jeopardising the strategic border security partnership.

The change can be seen over the past year or so. In March 2012 Australia co-sponsored the United Nations Human Rights Council (UNHRC) resolution calling on Sri Lanka to address allegations of war crimes at the end of the civil war.⁵¹ (It is this act that some commentators believe caused a Sri Lankan official to unleash the tide of boats.) Even in October 2012, Australia made a strong statement during the Universal Periodic Review of Sri Lanka's Human Rights record at the Human Rights Council, addressing ongoing problems of uninvestigated abductions and disappearances and concerns about torture and mistreatment by police and security forces.⁵²

By December 2012, after the arrival of more than 6,000 Sri Lankans by boat, Australia's tone had changed. Carr, visited Colombo to reconfirm the border security relationship, intent on appeasement and collaboration. He declared Australia to be "very, very happy" with its relationship with the Government of Sri Lanka and "very very happy that they are cooperating with us in facilitating the return of people who are not asylum-seekers, who are economic refugees and have no claim to jump the queue".⁵³ "I welcome Sri Lanka's strong support for anti-people smuggling activities, and look forward to increased co-operation in destroying the people smuggling business model", he said.⁵⁴

In December 2012, Sri Lanka was again under the international spotlight with the impeachment of the chief justice in motion and questions about its suitability to host the upcoming Commonwealth Heads of Government Meeting (CHOGM), given its failure to investigate allegations of war crimes. Nonetheless, in December 2012, Carr committed Australia to attending CHOGM in Colombo and encouraged other like-minded states to do the same.⁵⁵

Australia's criticism of Sri Lanka's human rights record has been diluted since that time. Australia made no statements of concern upon the impeachment of the Sri Lankan chief justice in January 2013, despite many like-minded countries and international organisations expressing their concern at the unconstitutionality of the impeachment and the threat it posed to an already compromised rule of law in Sri Lanka.

When the US sought co-sponsors for another Human Rights Council resolution in March 2013, Australia announced its decision to co-sponsor it at the 11th hour, effectively balancing its competing interests to avoid making a statement critical of the Government of Sri Lanka in the Human Rights Council chamber, while maintaining its reputation as a good global citizen, particularly during its current tenure on as a non-permanent member of the UN Security Council.⁵⁶

In April 2013, Carr downplayed evidence of ongoing human rights abuse in Sri Lanka.⁵⁷ Carr insists that engagement and not isolation is the best way to deal with Sri Lanka.⁵⁸ After a long hiatus in any public criticism, in May 2013, Carr indicated that he had raised human rights with the Sri Lankan government. Carr acknowledged that "media and civil society continue to operate in a difficult environment" in Sri Lanka and raised concerns about the impeachment of the chief justice.⁵⁹ While these issues are of real importance in Sri Lanka, Carr sidestepped other critical issues such as military occupation, devolution of power, ongoing systemic discrimination and persecution and women's insecurity, all of which contribute to the flow of boat migrants to Australia.

Australia's myopic "stop the boats" approach to Sri Lankan foreign policy leaves it vulnerable to Sri Lanka's demands – viz, silence on human rights violations, provision of intelligence taken from detainees in Australian immigration detention and increased resourcing for military.⁶⁰ If Australia criticises Sri Lanka's human rights record or even acknowledges ongoing abuse and persecution there, it risks losing the backing and support of its key partner in stopping boats and providing legitimacy to asylum claims made by boat arrivals.

On the other hand, as Australia mimics the rhetoric of economic migration, it closes off an important avenue through which to make progress on the political and security causes underlying boat migration, it isolates itself from its usual allies in international relations and sullies its international reputation.

If the claims about the Sri Lankan government's involvement in people smuggling are true, Australia's border security partner is not just unreliable, but is preying on Australia's weakness.

The likelihood of change in the future is bleak. Australia is due for a federal election in late 2013 and any change in government at that time is unlikely to yield a positive change in Australian foreign policy on Sri Lanka. In fact, after a five-day

visit to Sri Lanka in January 2013, the Australian opposition praised the reconciliation and reconstruction efforts of the Sri Lankan government and said that they saw no evidence of ongoing human rights abuses. The opposition has committed to using the Australian navy to tow all boats back to Sri Lanka without doing any form of assessment of the passengers' claims for asylum.

Meanwhile, in Sri Lanka, the cost of electricity and fuel rise, the military continues to have a domineering presence in the Tamil-majority areas and people's lives are affected by economic, political and physical insecurity. Only 1,200 Sri Lankans came by boat to Australia so far this year, but there seems to be no end in sight to the matters at the heart of it.

NOTES

- 1 Email from the Australian Department of Immigration and Citizenship to the author on 5 February 2013 (copy on file with the author). The term "migrant" itself may at times be used to the exclusion of people seeking asylum. In this paper "boat migrants" is used inclusively to refer to all people who sought to leave Sri Lanka for Australia by boat without going through official channels, regardless of their reasons for leaving. Of the 6,412 Sri Lankans that arrived in 2012, 1,027 were Sinhalese and 5,215 were Tamils. A further 170 detainees' ethnicity is not yet determined.
- 2 Admiral Thisara Samarasinghe, the Sri Lankan High Commissioner to Australia in Kelly and Hodge (2013). To some extent the term migrant is used in discourse to define the group of people who migrate but do not seek protection under the Refugee Convention. For the purposes of this paper, the term boat migrant is used inclusively to describe all people who are leaving Sri Lanka without passing through an authorised Sri Lankan port, regardless of their motivations for leaving.
- 3 Naomi Selvaratnam, "Why do asylum boats keep coming from Sri Lanka?" SBS Radio, available at <http://www.sbs.com.au/news/article/1722996/Why-do-asylum-boats-keep-coming-from-Sri-Lanka>, accessed on 15 April 2013.
- 4 Statistics on boat arrival are available through the Australian Parliamentary Library, see Janet Phillips and Harriet Spinks (2013). See UNHCR (2012). Australia received 371 asylum applications from Sri Lankans in 2011 that increased to 2,345 in 2012. By comparison, the number of asylum applications from Sri Lankan nationals decreased slightly in the other top receiving countries between 2011 and 2012: Canada (629 in 2011 and 414 in 2012); France (3,183 in 2011 and 3,085 in 2012); Germany (521 in 2011 and 430 in 2012); (US 260 in 2011 to 237 in 2012); United Kingdom (2,142 in 2011 to 2,128 in 2012), save for Switzerland which fell by just 10 people (433 in 2011 and 443 in 2012). (This is despite Australia implementing a system of off-shore processing which denies many of the boat arrivals from making an asylum claim at all.)
- 5 Sri Lankan high commissioner to Australia, Admiral Samarasinghe, stated "The people are fleeing not because of leaving the shores, not because of any persecution; there are economic opportunities coming to Australia for a better life", *ABC Lateline*, 10 April 2013, available at <http://www.abc.net.au/lateline/content/2013/s3734398.htm>, accessed on 11 April 2013.
- 6 See Bob Carr's comments on *ABC Lateline*, 28 June 2013, available at <http://www.abc.net.au/lateline/content/2013/s3792346.htm>, accessed 29 July 2013.
- 7 Martin Bowles, Secretary to DIAC during questioning in Senate Estimates, 27 May 2013, reported in Hall (2013a).
- 8 Department of Immigration and Citizenship statistics, reported in Hall (2013b).
- 9 Not her real name. All of the names in this paper have been changed to protect the identity of the interviewees.
- 10 Interview with Bami, northern province, Sri Lanka, February 2013.
- 11 Interview with Kedish, northern province, Sri Lanka, November 2012.
- 12 24 January 2013 <http://dbsjeyaraj.com/dbsj/archives/15251> for numbers; See also the Report of the Office of the United Nations High Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka, 11 February 2013, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf, accessed on 4 June 2013.
- 13 See order in *Navaratnam Govinath vs CID High Court Case No & Bail Application: 537/12* before Hon Mr J Viswanathan, Judge of the High Court (Jaffna), 15 January 2013 [copy on file with author]. This acknowledgement by the judge supported his finding that the former cadre, who was held on charges of trafficking in persons, had 'exceptional circumstances' under the *Immigration and Emigration Act* Article 47 Section A (1) and 45 C, which resulted in his release on bail.
- 14 Interviews with Parathis and his brother (E), Eastern Province, Sri Lanka, October 2012.
- 15 Interview with Aingaran, northern province, Sri Lanka, February 2013.
- 16 For a discussion of the difficulties facing fishermen in the northern province, see Scholtens et al (2012).
- 17 Interview with II, northern province, Sri Lanka, November 2012.
- 18 Interview with DD, northern province, Sri Lanka, November 2012.
- 19 Interview with II, northern province, Sri Lanka, November 2012.
- 20 Interview with E, eastern province, Sri Lanka, October 2012.
- 21 Interview with Q, southern province, Sri Lanka, February 2013.
- 22 See Gamage (1998) and Van Hear (2004).
- 23 Interview with NN, northern province, Sri Lanka, November 2012.
- 24 Interviews in Sri Lanka, October 2012 to February 2013.
- 25 Interview with NN, northern province, Sri Lanka, November 2012.
- 26 Interview with X, western province, Sri Lanka, December 2012.
- 27 Interviews with X, T, U, V and AA, western province, Sri Lanka, December 2012.
- 28 Interviews in Sri Lanka.
- 29 Government statistics on the age and gender of boat migrants is not available. However, from the interviews and media reports it seems that it was primarily young men travelling alone.
- 30 Interview with GG, northern province, Sri Lanka, November 2012.
- 31 Interview with T, southern province, Sri Lanka, February 2013.
- 32 Interview with H, eastern province, Sri Lanka, October 2012.
- 33 For information on Australia's immigration detention policies and practices see the Australian Human Rights Commission website: <http://www.humanrights.gov.au/immigration-detention-asylum-seekers-and-refugees>. For an explanation of 'screening out' see Rachel Ball (2012), "Screening out' asylum seekers undermines rule of law and risks returning people to face torture", Human Rights Law Centre, 20 December 2012, available at <http://www.hrlc.org.au/screening-out-asylum-seekers-undermines-the-rule-of-law-and-risks-returning-people-to-face-torture>, accessed on 15 April 2013.
- 34 Interview with D, eastern province, Sri Lanka, October 2012.
- 35 Interview with F, eastern province, Sri Lanka, October 2012.
- 36 Interview with S, southern province, Sri Lanka, February 2013.
- 37 "Nobody said anything about detention. We were told we would be apprehended by the navy and maybe held for three weeks and then given jobs": Interview with T, southern province, Sri Lanka, February 2013.
- 38 "I would not be able to work in the camp but there is an allowance you get in there": Interview with NN, northern province, November 2012; "The camps are better than our camps here. It is possible to work in the camp as well and to go back at night": Interview with OO, northern province, Sri Lanka, November 2012; One man's friends who had made the journey told him that they get 2,00,000 SLR for their welfare in camps, which means that they can save money. They also said that they get medical attention, food, they are happy with their friends and they can play inside the camp: Interview with E in eastern province, Sri Lanka, October 2012.
- 39 "If I go, I will be put in a camp, not a jail, then given a card to go and work. After two years I would have brought my family over to Australia": Interview with DD, northern province, Sri Lanka, November 2012.

- 40 Interview with O and P, southern province, Sri Lanka, February 2013.
- 41 Interview with Kapila Waidyaratne, deputy Solicitor-General, Sri Lanka, November 2012.
- 42 It was then reported that a "senior Sri Lankan government official was complicit in people smuggling" in Stewart and Maley (2013).
- 43 *The Australian*, 2 February 2013, <http://www.theaustralian.com.au/national-affairs/surge-sri-lanka-payback/story-fn59niix-1226567055411>
- 44 This matter was first reported in *The Social Architects*, "Troubled Waters: Corruption and Human Trafficking in Post-war Sri Lanka", *Groundviews*, 19 July 2012, available at <http://groundviews.org/2012/07/19/troubled-waters-corruption-and-human-trafficking-in-post-war-sri-lanka/>, accessed 15 April 2013. It was then reported that a "senior Sri Lankan government official was complicit in people smuggling" in Cameron Stewart and Paul Maley (2013). Both governments deny the claims. See for example Wroe (2013).
- 45 Danesh Jayatilaka, "Research Study on Human Smuggling in Sri Lanka: Windows for Intervention by the International Organisation for Migration (IOM)".
- 46 Canadian Security and Intelligence Service (1999), *Commentary No 77: Liberation Tigers of Tamil Eelam's (LTTE) International Organisation and Operations – A Preliminary Analysis*, 1999, available at <http://www.csis-scrs.gc.ca/pblctns/cmmntr/cm77-eng.asp>, accessed on 20 May 2013. See also Smith (2011) and Peiris (2001).
- 47 Interview with HH, northern province, Sri Lanka, November 2012.
- 48 Interview with HH and CC, northern province, Sri Lanka, November 2012.
- 49 Interview with II, northern province, Sri Lanka, November 2012.
- 50 Interview with HH, northern province, Sri Lanka, November 2012.
- 51 See Department of Foreign Affairs and Trade Country Brief on Sri Lanka, available at http://www.dfat.gov.au/geo/sri_lanka/sri_lanka_country_brief.html
- 52 Australian Statement to the Human Rights Council, 1 November 2012, available at <http://www.geneva.mission.gov.au/gene/Statement391.html> (accessed on 29 May 2013).
- 53 Ministry of Defence Statement, "Australia Sends 48 More Sri Lankan Asylum Seekers Home", Ministry of Defence, 14 December 2012, http://www.defence.lk/new.asp?fname=Australia_sends_48_more_Sri_Lankan_asylum_seekers_home_20121214_04
- 54 Statement by foreign minister, 17 December 2012, available at http://foreignminister.gov.au/releases/2012/bc_mr_121217.html
- 55 *Daily Mirror*, 17 December 2013, available at <http://www.dailymirror.lk/news/24331-australia-assures-support-for-cwealth-summit.html>, accessed on 2 June 2013.
- 56 Statement by foreign minister, 16 May 2013, available at http://foreignminister.gov.au/releases/2013/bc_mr_130516a.html
- 57 ABC, "Carr Rules Out Sri Lanka CHOGM Boycott", 27 April 2013, available at <http://www.abc.net.au/news/2013-04-27/carr-rules-out-sri-lanka-chogm-boycott/4654954>, accessed on 3 June 2013.
- 58 Press statement, Bob Carr, 17 May 2013 available at http://www.foreignminister.gov.au/releases/2013/bc_mr_130516a.html
- 59 Press statement, Bob Carr, 17 May 2013 available at http://www.foreignminister.gov.au/releases/2013/bc_mr_130516a.html
- 60 Amanda Hodge, "Returns Will Stop the Boats", *The Australian*, 28 July 2012 (copy in Leebron email file), in which the Sri Lankan immigration department complain that Australia doesn't provide enough information taken from immigration detainees.

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