

**THE 23<sup>RD</sup> COMMONWEALTH *TOURNÉE* WILL TAKE PLACE IN COLOMBO,  
SRI LANKA ON 15-17 NOVEMBER 2013**

**By George Venturini \***

12 October, 2013

**Countercurrents.org**

Cast of characters:

Elizabeth Alexandra Mary Hanover-Saxe-Coburg-Gotha, later Windsor (since 1917), and later still Battenberg (since 1947)

in the part of Elizabeth the Second, by the Grace of God Queen of the United Kingdom and Her other Realms and Territories, Head of the Commonwealth. In that capacity she officiated in Perth, Western Australia on 28 and 29 October 2011 for the 22<sup>nd</sup> *Tournée*. Elizabeth II is also Queen of Australia, of former Dominions such as Canada, New Zealand, as well as *villes du plaisir et de débauche* for the privileged such as Antigua and Barbuda, the Bahamas, Barbados, Belize, Grenada, Jamaica, and fortunate places such as Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, the Solomon Islands, and Tuvalu, in each of which she is represented by a Governor-General. Elizabeth II holds a variety of other positions, among them Supreme Governor of the Church of England, Duke of Normandy, Lord of Mann, and Paramount Chief of Fiji. Her Majesty is also styled Duke of Lancaster, Commander-in-Chief of the armed forces of many of her realms, Lord Admiral of the United Kingdom, Defender of the Faith in various realms for differing reasons.

Neither Elizabeth II nor her husband (and second cousin once removed as well as third cousin - and that may go a long way in explaining Prince Charles and much of the other progeny), Philip Schleswig-Holstein-Sonderburg-Glücksburg known as Prince Philip, Duke of Edinburgh, will take part in the *Tournée*, as they had done in Australia in 2011 at the declared cost - according to the Australian government - of AU\$ 58 million. The Queen will survive on a meagre disbursement of 35 million English pounds, having recently

obtained a rise of 2 million for her services - essentially for doing nothing. One of the Queen's functions is that of supporting a large and expanding *entourage* of social parasites.

The wealth of the 'Windsors' remains a deep mystery on which one could only speculate. A lot of reports surfaced that the Queen and the Royal Family are worth billions, although clarifications have been made that much of the privileges enjoyed by Her Majesty, including living on palaces and castles such as Buckingham Palace and Windsor Castle, using the Crown Jewels and hundreds of priceless paintings, are held in trust for the state. She could use them but she could never sell them. But, with or without these, Queen Elizabeth II is a very, very wealthy woman.

The Queen's personal fortune has been the subject of speculation for many years. Sometimes estimated at US\$ 10 billion, recently *Forbes* magazine conservatively estimated her fortune at around US\$ 500 million. This figure seems to agree with official Palace statements which called reports of the Queen's supposed multibillion-dollar wealth 'grossly over-exaggerated'; however, it conflicts with a total addition of the Queen's personal holdings. Her personal art collection is worth at least 10 billion English pounds, but is held in trust for the nation, and cannot be sold. The Queen also privately owns large amounts of property which have never been valued, including Balmoral Castle and Sandringham House. Press reports, upon the death of the Queen Mother, speculated that the Queen inherited estate worth around 70 million pounds. Furthermore the Queen owns the Duchy of Lancaster, which is valued at 310 million pounds. The Queen technically owns the Crown Estate with holdings of 6 billion pounds; although the income of this is transferred to the Treasury in return for the civil list payments.

As early as 1962 estimates were being made on the actual wealth of the Queen. Jock Colville, the Queen's former Private Secretary, then a banker, "made a statement in *The (London) Times* in which he said that the Queen was worth 12 million pounds."

In 1991 *The Sunday Times* of London estimated that Queen Elizabeth II had assets worth US\$ 11 billion. In 1992 *Guinness World Record* wrote that she was "asserted by some to be the wealthiest woman," although "a few of her assets under the perpetual succession of the Crown are either personal or disposable."

In October 2001 *The Mail on Sunday* ran a two-part Royal Rich Report which estimated the Queen's wealth at nearly US\$ 2 billion, mainly broken down into the following: stocks and

shares estimated at US\$ 800 million, jewellery collection worth US\$ 120 million, including a diamond brooch worth nearly US\$ 42 million, stamp collections valued at US\$ 167 million, and fur coats that she never wears worth at US\$ 1.6 million.” This collection does not include horses and a stud farm, wine, medals, a collection of classic cars and land - a lot of land in the United Kingdom, Australia, Canada, New Zealand and other lesser known domains across the seas.

In 1993 the Lord Chamberlain announced that “the Queen’s cash fortune was less than 100 million pound.” In 2011 *Forbes* magazine estimated her wealth at US\$ 450 million. In 2012 the financial firm *Wealth-X* estimated Elizabeth II to be worth US\$ 510 million.

The Queen also enjoys the income from the Duchy of Lancaster, an ancient estate made up of lands across the country and stock market investments. As at 2012 the Duchy had a market value of US\$ 600 million.

“Not included are those assets belonging to the Crown Estate.” wrote *Forbes*, “which she gets to enjoy as Queen, such as \$10 billion worth of real estate, Buckingham Palace - estimated to be worth another \$5 billion, the Royal Art collection, and unmarked swans on stretches of the Thames.”

However, the *Almanach de Gotha* is more generous in assessing Elizabeth II’s wealth. As the leading authority when it comes to royalty, the *Almanach* puts the Queen’s wealth over US\$ 100 billion, claiming that as sovereign, the Crown Estates, Royal palaces, Crown Jewels, *et cetera*, are legally hers. This makes her not only the richest monarch, but also the richest person in the world - richest beyond measure if one can only imagine Queen Elizabeth II’s holdings through a myriad of nominee companies.

Living off so much wealth, power and privilege is a long list of freeloaders, which begins with

**Prince Philip, Duke of Edinburgh**, whose estimated wealth is US\$ 45 million.

**Prince Charles**, who, with an estimated wealth of US\$ 200 to 500 million, is the richest person in the Royal Family aside from the Queen, although he derives much of his income, and wealth from the Duchy of Cornwall, valued at more than US\$ 1 billion, with an annual profit of US\$ 27 million. The Duchy owns his country home in Gloucestershire, most of his cars and even the pen he writes with. The Duchy however is held in trust for succeeding princes of Wales, so he cannot liquidate its assets. But until he accedes to the throne - if ever, the 58,000 hectares which cover properties from the Oval cricket ground in London to Dartmoor prison and smallholdings in Devon, are run solely for his benefit and his profit.

In October 2012 financial accounts from the Duchy of Cornwall revealed that, since 2007, the Prince had inherited an accumulated amount worth US\$ 2 million from the estates of the duchy's residents who died without a will as stipulated by a medieval law. In 2011 alone, the Prince enjoyed an entry of US\$ 800,000.

**Prince William, Duke of Cambridge** has an estimated wealth of US\$ 25 million. Upon turning thirty last year Prince William received a substantial inheritance from the late Princess Diana's estate, amounting to as much as US\$ 17 million. When he turned twenty one, he became recipient of the US\$ 3 million trust left by the Queen Mother, and another US\$ 4 million trust fund, which continues to multiply in value, awaits him when he turns 40. The Prince is also expected to inherit the substantial income from the Duchy of Cornwall when he succeeds as heir apparent once Prince Charles becomes king - if ever.

**Prince Harry** holds an estimated wealth of US\$ 16 million. The Prince is not as well-endowed as his elder brother, but the zesty Royal hunk still enjoys a substantial wealth, given that Princess Diana had split her estate evenly between her two sons. He is set to inherit his millions when he turns thirty, just like his brother. It is safe to estimate that the unlikely-Battenberg-looking young Harry the Nazi will be worth around US\$ 30 million when he reaches that age. The Queen Mother also left him with a substantial chunk of inheritance. Funds with initial investments of 6.9 million pounds (US\$ 11 million) were set up for Harry

and, with interest, are now worth at least 10 million pounds (US\$ 17 million).

**Prince Andrew, Duke of York** has an estimated wealth of US\$ 75 million. The Prince draws his wealth from a trust fund set up for him when he was still a child, plus substantial investments on businesses and properties. The Prince also receives an annual personal allowance from the Queen in addition to the fixed 249,000 pounds-a-year annuity - about US\$ 415,000 - he receives to cover costs such as staff salaries, that the Queen also pays.

**Princesses Beatrice and Eugenie**, Prince Andrew's daughters, became instant millionaires in 1996, after their parents' divorce settlement awarded them with roughly US\$ 3 million trust fund. In 1994 the Queen Mother established a US\$ 3 million trust fund for each of the sisters. They presently hold an estimated wealth of US\$ 5-6 million each.

Prince Edward, Earl of Wessex has an estimated wealth of US\$ 40 million. A failed entrepreneur, the Prince receives US\$ 235,000 from the Queen and his and his wife wealth is drawn primarily from their home, Edward's trust funds and valuable furnishings in Bagshot, their official residence, much of which were received as wedding presents.

**Anne, Princess Royal** has an estimated wealth of US\$ 30 million. The most frugal of the Queen's children, Princess Anne, the Princess Royal, is the beneficiary of a trust fund set up by her grandfather, George VI, added to by the Queen and Prince Philip and reported to be worth around 2 million pounds when she was still a child. The Princess' wealth also came from valuable gifts she received during her wedding to Captain Mark Phillips, including fabulous jewellery, valued at US\$ 1 million in 1976. The biggest present was her home, Gatcombe Park in Gloucestershire, bought for her by the Queen and now worth about US\$ 15 million and she has jewellery worth US\$ 7 million. The Princess also receives roughly US\$ 380,000 in annuity to cover the cost of her official duties.

There follows a rather lengthy line of bludgers such as

**Prince Richard, Duke of Gloucester** who has an estimated wealth of US\$ \$25 million. The Duke receives nearly US\$ 300,000 a year from the Queen to cover his Royal expenses and staff and pulls in US\$ 100,000 from the tenants of Barnwell Manor.

**Prince Edward, Duke of Kent** holds an estimated wealth of US\$ 10-15 million. He claims to be the poorest among the Royals, at least by their standard, although he and his family are still worth at least US\$ 10 million, not to mention the privileges accorded to being a Royal, including gifts, free holidays, grace-and-favour housing and free travel on official duties. The Duke also receives almost US\$ 400,000 a year for carrying out official Royal duties, as well as a small Army pension. The family's wealth was tied to jewelleries, estimated at US\$ 14 million. In 2006 the Duke and his siblings, Prince Michael and Princess Alexandra, enjoyed a windfall after making US\$ 3.5 million from the auction of some family heirlooms.

**Prince and Princess Michael of Kent** have an estimated wealth of US\$ 8-10 million. Known as the 'Rent-a-Kent' for their numerous commercial ventures - often verging on a questionable character, the couple are the only members of the Royal Family who do not receive money from the Queen and do not perform any official royal duties. The Prince earns his keep from his own consultancy firm, Cantium Services, which, after several years of losses, posted profits worth US\$ 100,000. The company is currently valued at US\$ 500,000. The Princess meanwhile, earns more by writing books, providing lectures and running her own interior design company, Szapar Designs. After being forced to pay or vacate their grace-and-favour apartment at Kensington Palace, the couple, who were crying poverty, sold their Gloucestershire country home for nearly US\$ 10 million, while the US\$ 3.5 million-sale of their parents' personal effects provided some extra cash.

**Princess Alexandra** is worth an estimate wealth US\$ 18-20 million. Princess Alexandra derives much of her wealth from the inheritance she received from her husband, Sir Angus Ogilvy, who was a shrewd businessman until the *Lonrho* Affair forced him out from several corporate directorships. The Princess receives US\$ 375,000 a year to pay for her official expenses. She also owns heirlooms, an art collection worth \$6 million, and magnificent jewellery estimated at \$15 million.

The latest ‘Royal baby’, George Alexander Louis, was a billionaire even before his birth on 22 July 2013.

In April 2013 the Queen received a pay rise of another 5 million pounds of taxpayers’ money to carry out her ‘official duties’. On such occasions, her use of arcane language reinforces the *mystique* and how far removed she is from the real world.

Pursuant to the *Sovereign Grant Act* of 2011 the amount necessary to support Elizabeth II in the manner to which she was born has been set 36.1 million pounds for the 2013-2014 financial year. The new system is intended to replace the old Civil List and Grants-in-aid.

The days before the arrival to Australia and during the visit of the Royal Couple in October 2011 one could have witnessed an organised outpouring of platitudes over the elderly monarch. ‘Ephemeral’ and even avowed ‘republicans’ had been eager to sing Her Majesty’s praises. It is the kind of ‘constitutional tomfoolery’ - a miserable, provincial farce - which has been going on for decades, without visible abatement. It gives succour to the saying: *Vulgus vult decipi, ergo decipiatur*. The masses want to be cheated, so let us cheat them - attributed to Petronius, Roman satirist, 27-66 c.e.

The monarchy still epitomises conservative - nay, reactionary - values and the *status quo*. It is a bastion against change, it is the living embodiment of a hierarchical society, reinforcing the notion that there is an established order: people should know their place and accept it. The monarchy is a ‘pyramid scheme’.

Britain's peoples - and so Australians - are not citizens but subjects. They have been conditioned from birth to accept that there is only one form of government, and that is a 'constitutional monarchy' - like the British, of course.

The monarchy is an anachronism, totally out of step with life in the twenty-first century. It allows English brains - and the brains of those 'British at large' like 'real Australians' in a power position - to 'take a break'. The grudging cynicism which is offered to politicians is revealed all the more tartly by the reverence which seems obligatory with the monarchy.

\* \* \*

Elizabeth II will be present in spirit at Colombo and represented by

**Charles Philip Arthur George Battenberg,**

as the Prince of Wales, whose only occupation has been that of the longest-serving heir apparent in British history, having held the position since 1952. Known by the Scots as Duke of Rothesay and in South West England as Duke of Cornwall, he is also the oldest heir to the throne since 1714, when the House carried the original name Hanover. The whole *shebang* of the Battenbergs goes back to Sophia of Hanover, from which the litany descended of the Georges who could not/would not/did not speak English - and the 'lightness' of Charles. Charlie = English colloquial for a fool, an idiot.

And by the way, after the collapse of his marriage to Princess Diana amid bitter mutual recriminations, Charles was able to marry his long time paramour, Camilla Parker Bowes, whose occupation is that of Duchess of Cornwall. Charlie, a chinless wonder - like any English man from a 'high social class', who thinks he is intelligent and important, but who other people think he is weak and stupid - and chisel-chinned Camilla will be welcomed by

**Percy Mahendra 'Mahinda' Rajapaksa,**

in the part of the 6th President of Sri Lanka, since 27 January 2010, and Commander in Chief of the Sri Lankan Armed Forces.



Upon his ultimate command, General (ret'd.) Sarath Fonseka, had executed the bloody campaign of systematic bombing densely occupied areas, refuges, schools and hospitals in the area held by the Liberation Tigers of Tamil Eelam - L.L.T.E., and had publicly fallen out with President Rajapaksa following the end of the war. He stood for election, which resulted in the victory of Rajapaksa in January 2010. During the course of the campaign Gen. Fonseka alleged politicisation of the army and deteriorating standards, and - very conveniently - criticised the government's treatment of Internally Displaced Persons. This was the label euphemistically used to describe some 300,000 victims of Fonseka's brutality.

At the end of the hostilities against the L.T.T.E, almost 300,000 I.D.P.s were placed in detention camps or 'welfare villages' as the Government called them. Following considerable pressure from the United Nations and the international community and after the announcement of the presidential election in late November, the Government announced that from 1 December 2009 those detained in the camps would have limited freedom of movement to visit relatives. The Government subsequently also speeded up the process of 'resettlement' of Internally Displaced Persons. However, at the time of election, over 100,000 people would be kept behind barbed wire, while others had been 're-settled' in controlled 'areas of origin', or with relatives in other areas. In a pacified country this circumstance would have raised concerns about the formidable practical obstacles to the peaceful exercise of democratic vote.

It may be worth specifying that Sri Lanka is officially the Democratic Socialist Republic of Sri Lanka. In that 'republic' Rajapaksa is President, Minister of Finance, Minister of Defence and Urban Development and Minister of Ports and Development. And that is only the beginning.

President Rajapaksa will be accompanied by a very large *troupe* of some of his relatives, whose number and functions give a special meaning to the word 'democratic'.

Listing them may take some space; but it will also characterise the 'socialist' nature of the 'republic'.

The order of presentation could be this:

- son Namal is Parliamentary member of Hambantota district, Chairman of Tharunyata Hetak, Co-owner of Carlton Sports Network

- son Shameendra is Director of Sri Lanka Telecom, Director of Sri Lanka Airlines, Private Secretary to the Minister of Finance and Planning
- son Yoshitha is Sub-lieutenant of the Navy, Co-owner of Carlton Sports Network

Then come Mahindra's brothers:

- Basil is Cabinet Minister of Economics, Development, former Presidential advisor
- Chamal is Speaker of the Sri Lanka Parliament, former Minister of Ports and Aviation
- Gotabaya is Secretary of Defence, Chairman of state-owned Apollo Hospitals

then the nephews:

- Himil Laleendra Hettlarachchi is C.E.O. of Sky Networks (owned by Sri Lanka Telecom)
- Shasheendra Rajapaksa is Chief Minister of Uva Province

followed by the cousins:

- Jaliya Wickramasuriya is Sri Lanka Ambassador to the United States
- Prasanna Wickramasuriya is Chairman of government-owned Airport and Aviation Services Group
- Udayanga Weeratunga is Sri Lanka Ambassador to Russia.

Finally there appear the brothers-in-law:

- Lalith Chandradasa is Director of state-controlled Development Finance Corporation of Ceylon Bank
- Nishantha Wickramasinghe is Chairman of Sri Lanka Airlines and Chairman of Mihin Airlines

and a relative of 'Mahinda's wife:

- Asantha De Mel is Former Chairman of Ceylon Petroleum Corporation and Chairman of Selectors for Sri Lanka Cricket.

But the most interesting in this 'court' of the 'republic' is what is referred to as a close family friend: Sumanadasa Abeygunawardena who is *Astrologer*, Working Director of State-owned

National Saving Bank, Chief advisor of the I.T.N. media group, Justice of the Peace, Director of the Galle Hospital, and *confidante* to the President's eldest son, Namal.

President 'Mahinda' Rajapaksa is able to rely on seven close persons in government and military positions, five of them in State-owned companies, two in the finance field, and three in the media and telecommunication industries - and perhaps indirectly, on an astrologer !

Here is every saver's dream come true - a bank director who can predict the future ! Abeygunawardena is the 'working director' of one of Sri Lanka's biggest banks - when he is not being a celebrity soothsayer. With columns in government-friendly newspapers, a regular star-gazing spot on national television and a lucrative personal horoscope service - 'My Astro' - delivered via SMS with the state telephone company, he is one of the country's most visible faces.

Quite likely this *Cabal* would require a fairly wide notion of conflict of interest, if at all necessary - but no one should unduly worry !

Every year Transparency International puts out a Corruption Perceptions Index. The Index scores countries on a scale from 0 - highly corrupt, to 100 - very clean. While no country has a perfect score, two-thirds of countries score below 50, indicating a serious corruption problem.

Looking at the Index for 2012, it is clear that corruption is a major threat facing humanity. As the organisation remarks: "Corruption translates into human suffering, with poor families being extorted for bribes to see doctors or to get access to clean drinking water. It leads to failure in the delivery of basic services like education or healthcare. It derails the building of essential infrastructure, as corrupt leaders skim funds. Corruption amounts to a dirty tax, and the poor and most vulnerable are its primary victims."

Corruption destroys lives and communities, and undermines countries and institutions. It generates popular anger which threatens further to destabilise societies and exacerbate violent conflicts.

Transparency International recommends: "Governments need to integrate anti-corruption actions into all aspects of decision-making. They must prioritise better rules on lobbying and

political financing, make public spending and contracting more transparent, and make public bodies more accountable.”

On the Index for 2012 Sri Lanka ranks 79 out of the 174 countries evaluated - Afghanistan, North Korea and Somalia being jointly at the bottom. By way of reference, Australia is 7<sup>th</sup>, with the United Kingdom at the 17<sup>th</sup> place and the United States at the 20<sup>th</sup>.

There will be some ‘great absent ones’ from Colombo: to begin with, Ms. Julia Gillard, former Prime Minister of Australia, and former Chairperson-in-Office of the Commonwealth of Nations, the second female to obtain that position at the 2011 Perth C.H.O.G.M. Ms. Gillard was in-turn succeeded by Mr. Kevin Rudd after resigning as Prime Minister of Australia on 27 June 2013. Mr. Rudd went on to lose the Australian federal election in September 2013, and was subsequently succeeded by the new Prime Minister Tony Abbott. Abbott will remain in the position until Commonwealth leaders meet for the 23rd time on 15 November 2013, where he will be succeeded by President Rajapaksa.

Perth, Western Australia is a place for exhibitionist vulgarians, mainly from the mining industry; but during C.G.H.O.M. 2011 there was room for others, provincial and unsophisticated. One will never know, and most people would not care to know, what the Queen might have thought of a Premier who took a public occasion for publicly thanking by name the providers of 120 barbeques, of 120,000 sausages and of 1,500 litres of tomato sauce. A private letter might have done it, but where would have been the show ?

For a brief period of eleven days Elizabeth II was the richest woman in Australia, by far infinitely richer than the ordinary resident: Gina Rinehart, who at AU\$ 23 billion levies the heaviest weight in Western Australia.

In Perth during C.G.H.O.M. 2011 both then Prime Minister Gillard and then Minister for Foreign Affairs Rudd referred to the team led by President Rajapaksa as “our friends.” One may very well ask: the butchers of the Tamils “our friends” ? Tamils have been called the last surviving classical civilisation on earth. Something went terribly wrong in the education of Ms. Gillard and Mr. Rudd.

No doubt in Colombo, at C.G.H.O.M. 2013, Prince Charles will close his address with some climaxing quotation from an English poet. Better still, he may quote from some Sinhalese saying, although he could be hard put to improve on the Queen’s closing words at Perth

2011: “We are all visitor to this time, this place, we are just passing through. Our purpose here is to observe, to learn, to grow, to love and then to return home.” A rude observer would add: and to enrich ourselves even more !

Majestic, noble solemnity will be rewarded by some local sycophant calling Charlie “an exemplar of the ideals of duty and service that make societies strong and civilisations last.” , or, as a poor soul said in Melbourne, during the Royal Visit, the “person to look up to” as Head of the multi-racial Commonwealth.

During the Queen’s Diamond Jubilee, which was a multinational celebration throughout 2012 marking the 60th anniversary of her accession to the throne on 6 February 1952, the Commonwealth leaders sat down to a special lunch with the Queen on 6 June 2012. There would undoubtedly have been much toasting. Yet, behind the pomp and pageantry of the Jubilee, lies an international association which has had few public political successes in recent years and shows signs of genteel decline. And there was likely to have been little discussion on that day of how the Commonwealth will add value in the modern diplomatic world.

The Commonwealth ‘played its role’ in the Jubilee celebrations. But for those who believe in the Commonwealth as a unique international experiment in promoting shared values around democracy, development and human rights, the celebrations must have been bittersweet. A growing momentum to reform and revitalise the Commonwealth’s institutions seems to be running out of steam.

Ahead of C.H.O.G.M. in Perth, in 2011, an eminent persons group came up with a set of recommendations to rebuild the Commonwealth’s profile. Many of their key reforms - such as the setting up of a commissioner on democracy, the rule of law and human rights - were kicked into the long grass. Attempts to enshrine shared values in a charter were being discussed by officials, but the final product is unlikely to go beyond existing international commitments.

Some of the Commonwealth’s most enduring successes - its role in ending South African *Apartheid*, for example - apparently arose from organising dialogue between countries with different outlooks which nonetheless managed to agree a way forward. Today there seems little appetite for tackling some of the thornier issues which should be on the agenda. For

example, the Commonwealth could be actively working to end the criminalisation of homosexuality in its member states, or clamping down on the arms trade. These are serious matters, not to be left to participants in a celebratory lunch.

And leaders attending lunch on 6 June 2012 needed not look far to see perhaps the thorniest issue of all. The Queen was joined by President Rajapaksa and Canadian Prime Minister Stephen Harper, who has said that he will not attend C.H.O.G.M. 2013 unless the Sri Lankan government addresses human rights violations.

Rajapaksa will rightly claim that his government has received no formal Commonwealth sanction and that he has the support of the vast majority of member states. Harper's concerns are shared by several member states and almost all Commonwealth non-government organisations. The problem is that Commonwealth institutions seem unable to lend a helping hand with reconciliation or development in Sri Lanka, or to be able to demonstrate that they can resolve political differences. Without the former, Sri Lanka and its supporters will see the Commonwealth as just another forum for meaningless resolutions; without the latter, the next C.H.O.G.M. may be marred by deep fault-lines and further scepticism about whether the Commonwealth stands for any shared values.

More than 1,000 Tamils demonstrated outside the venue for the 6 June lunch in protest over the presence of Rajapaksa as he had already been forced to abandon a keynote speech in the City. The protesters accused him of presiding over human rights abuses and war crimes by Sri Lankan armed forces. Demonstrators descended on Marlborough House, Pall Mall, with some wielding hanged effigies of the Rajapaksa. Their chants echoed around the forecourt as guests arrived. Police estimated there were 1,200 protesters, though the Tamils said there were many more. Rajapaksa was jeered as he swept through the main gates in a Range Rover, which did not carry a flag because of security concerns.

The Queen spent a brief moment with Rajapaksa and his wife, and the two shook hands at a pre-lunch reception in the Blenheim Saloon.



At lunch Rajapaksa was seated to the Queen's left. He later stood alongside Prime Minister Cameron for a 'family photo' of the group, apparently arranged informally and not dictated by protocol.

"It is absolutely not appropriate for President Rajapaksa to be feted by the Queen at the behest of the Commonwealth secretary general." said the director of the Sri Lanka Campaign.

But Queen Elizabeth did not even bother herself to remain loyal to the values that she claims by cancelling the invitation of people like Rajapaksa and the Middle Eastern and African tyrants. The autocrats of countries such as Bahrain, Jordan, Kuwait, Lesotho, Saudi Arabia, Swaziland and the United Arab Emirates - most of them dictators and murderers - were toasting the Queen's health as her special guests while at the same time their actions in their own countries had left the ordinary people gasping for breath.

All Elizabeth II was concerned was showing off her wealth proudly and wearing a one-million-pound crown on her head.

\* \* \*

Rajapaksa is 'credited' - if that is the word - with terminating the 25 year long civil war and L.T.T.E.' terrorism' in the country.

As Commander in Chief of the Sri Lankan Armed Forces he remains ultimately responsible for the Mullivaikkal Hospital bombings.

Mullivaikkal Hospital was a [makeshift hospital](#) located in the [Safe Zone](#) in northern [Sri Lanka](#). A series of shellings and aerial attacks began on 23 April 2009 when the hospital was hit by three artillery shells. Bombing continued on 28 and 29 April when the Mullivaikkal Primary Health Centre was hit multiple times over a two-day period; six persons were killed and many injured including one medical staffer. On 29 and 30 April the hospital was again hit several times; nine more were killed and fifteen injured. There were two attacks against the hospital on 2 May, resulting in sixty-eight killed and eighty-seven wounded, including medical staffers. On the morning of 12 May 2009 the hospital was hit by an [artillery mortar](#), which killed at least forty-nine [patients](#) and injured more than fifty others. All of these attacks were carried out by the [Sri Lankan Army](#). The [Sri Lankan government](#), naturally, denied the accusation stating that there was no evidence.

At the time of the last bombing, the [Red Cross](#) was scheduled to ship about 2,000 patients out of the Safe Zone in the following couple of days.

[Human Rights Watch](#) accused the Sri Lankan military of shelling hospitals in the Safe Zone indiscriminately with artillery and attacking them aerially beginning with the Mullaitivu General Hospital in December 2008 and including at least eight other hospitals. Human Rights Watch argued that these attacks constitute [war crimes](#). The organisation also said that the hospitals were clearly marked. United States government photographs taken at the time showed the markings.

In 2009, following the end of the [Tamil uprising](#), the U.S. Department of State issued a 'Report to Congress on Incidents during the Recent Conflict in Sri Lanka.' President [Rajapaksa](#) appointed a committee to study and respond to that report. The committee interviewed numerous parties, including high ranking officers of the armed forces and medical officers who had been attached to Puthukkudiyiruppu, Mullivaikkal and other hospitals during the latter stages of the conflict. The committee received several extensions, but no report was issued.



The April 2011 United Nations '[Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka](#)' found that the allegations that the Sri Lankan military shelled hospitals were credible. They specifically found that the Mullivaikkal Hospital was clearly marked as such and that it was shelled by the Sri Lankan Army.

In May 2010 President Rajapaksa appointed a [Lessons Learnt and Reconciliation Commission](#), L.L.R.C. to deal with the aftermath of the war. The Commission received testimony about the shelling of the Mullivaikkal Hospital. Its final report concluded in general that: "9.10 The Commission is satisfied, on a careful consideration of all the circumstances, that shells had in fact fallen on hospitals causing damage and resulting in casualties. However, the material placed before the Commission points to a somewhat confused picture as to the precise nature of events, from the perspective of time, exact location and direction of fire."

However, the Commission did not specifically identify incidents in its conclusion and in fact concluded that non-availability of primary evidence of a technical nature and also the fact that supportive civilian evidence was equivocal in nature did not lead to a definitive conclusion that one party or the other was responsible for the shelling. There were no recommendations to the military as a result of the hospital shellings. The Commission concluded: "On consideration of all facts and circumstances before it, the commission concludes that the security forces had not deliberately targeted the civilians in the No Fire Zones, although civilian casualties had in fact occurred in the course of crossfire." It went on to say: "... the Commission after most careful consideration of all aspects, is of the view that the Security Forces were confronted with an unprecedented situation when no other choice was possible and all 'feasible precautions' that were practicable in the circumstances had been taken."

In April 2012 the U.S. State Department [Office of Global Criminal Justice](#), formerly the Office of War Crimes Issues, led by Ambassador-at-Large [Stephen Rapp](#), submitted a report on Sri Lanka to the U.S. Congress. The report diplomatically praised the L.L.R.C. report, but asked for the Government of Sri Lanka to establish an independent mechanism to investigate the credible allegations that the L.L.R.C. failed to address. The Global Criminal Justice Office indicated that the allegations regarding the shelling of known hospitals implicate grave breaches of [international humanitarian law](#) and merit further investigation.

Nothing was heard of it since.

As at 3 September 2013 the Sri Lankan government still denied responsibility for the killing of up to 70,000 Tamil civilians at the end of the civil war in 2009.

No doubt, the new Foreign Minister the Hon. Julie Bishop will attend C.G.H.O.M. 2013. She also is a republican-lite, not very different from Ms. Gillard at that.

The former Foreign Minister with the Gillard and Rudd governments, Senator for New South Wales Robert 'Bob' Carr, another republican-lite, might be there. He was extracted *in limine* from the cess-pit which the 'Labor' Party has become in that state, to replace resigning Senator Mark Arbib, better known as a 'protected source' - in plain English an informant - of the American Embassy in Canberra. Carr had been the *confidante* of the American Consul General in Sydney from the middle 1974, occasionally informing on the activities of the Whitlam government. He has been the best Washington's man in Australia.

It was Foreign Minister Carr who took it upon himself to go to Colombo and establish links with the Rajapaksa government.

\* \* \*

Two reports released in early May 2010 had further undermined the pretext of 'improved conditions' given by the Australian government for its suspension of all refugee visa applications from Sri Lanka. Most of the Sri Lankan refugees are Tamils who are fleeing the country after the defeat of the L.T.T.E. in 2009.

In April 2010 the first Rudd government froze the processing of asylum claims from Sri Lanka for at least three months, and those from Afghanistan for at least six months. The then Immigration Minister Chris Evans claimed that circumstances were "evolving" for the better in both countries. In the case of Sri Lanka, the Australian government had based its claims heavily on assertions by the Rajapaksa's regime itself that no one, including Tamils, faced persecution.

In reality, the Sri Lankan government had systematically lied about its numerous abuses of human rights in the same way that it repeatedly denied that the military was responsible for war crimes during its operations against the L.T.T.E. Tamils confront systematic official

discrimination and the danger of arbitrary arrest and torture. Over the past eight years, hundreds of people, mainly Tamils, have been murdered or 'disappeared' by pro-government death squads.

On 17 May 2010 the International Crisis Group released a detailed report on war crimes in Sri Lanka which punctured many of the government's lies. It accused top government and military leaders of being responsible for the deaths of "tens of thousands of Tamil civilians, countless more wounded, and hundreds of thousands deprived of adequate food and medical care, resulting in more deaths." While the report focused on the final months of the Sri Lankan government's war against the Liberation Tigers of Tamil Eelam, it also documented the continuing unlawful internment of Tamils, including more than 10,000 alleged L.T.T.E. supporters.

The Brussels-based think tank specifically called on the major powers, including the United States, Canada, European Union members and Australia, not to extradite L.T.T.E. "suspects" to Sri Lanka "unless guarantees of humane treatment and fair trials are in place." The report further urged these powers to "grant asylum or other protected status to witnesses" of the atrocities committed by the Sri Lankan military. These atrocities included the intentional shelling of civilians, hospitals and humanitarian operations, the deliberate shooting of civilians and the calculated infliction of suffering on civilians.

Elsewhere in the report, the International Crisis Group noted that all such foreign powers "turned a blind eye to the violations when they were happening." In fact, the 'western' powers, including Australia, tacitly supported the Rajapaksa government's renewed war against the L.T.T.E. in open violation of the 2002 ceasefire. The first Rudd government's refugee freeze was a continuation of that complicity.

The International Crisis Group noted that 80,000 civilians were still interned in military-run camps. As many as 12,700 individuals allegedly involved with the L.T.T.E. were held under "arbitrary confinement" in separate camps, denied access to their families, lawyers, the International Committee of the Red Cross and other protection agencies. "These detentions are unlawful and pose particularly grave risks given the government's history of alleged enforced disappearances and torture." the report stated.

In sum, the International Crisis Group report made it clear that anyone deported back to Sri Lanka, or even prevented from fleeing the country by the Australian government's freeze, is

in real danger. Moreover, crucial testimony about the Sri Lankan government's serious war crimes were suppressed.

On 19 May 2010 the Edmund Rice Centre, an Australian agency, issued a statement documenting the fact that Sri Lankan asylum seekers deported from Australia faced arrest and imprisonment. The agency's director, who had recently returned from Sri Lanka, said that the authorities there viewed any Tamil who fled the country as a L.T.T.E. sympathiser, and any Sinhala refugee as a traitor.

“On our most recent visit we found that all asylum seekers returned to Sri Lanka in recent months, are handed over to the [Criminal Investigation Department], the Sri Lankan police, and taken into custody.” The agency's director said in a media release. “Some are detained, some have been assaulted. One man who is still in jail has lost the hearing in one ear given the severity of the assault he suffered, and another has received damage to his sight.” And he added: “The Sri Lankan government was a party to one of the most brutal wars the world has seen in the past 100 years. In the absence of independent international observers being allowed in, to investigate the human rights situation, any guarantee from the government of Sri Lanka about the safety of people they regard as their enemies cannot be taken seriously.”

The agency stated that nine asylum seekers removed back to Sri Lanka by the Howard government (1996-2007) were later killed. Details of these and other killings of refugees deported from Australia - including 21 who had died in Afghanistan - were provided by two earlier Edmund Rice Centre reports, *Deported to danger* and *Deported to danger II*.

The first Rudd government refused to provide figures on how many Sri Lankan asylum seekers it had deported, but the agency had examined the plight of eleven. Each had been detained at the Colombo airport and although some had been released, others had been charged with “suspicion of terrorism” offences. The director emphasised: “No one can believe the claims of the Sri Lankan government, because it has lied about every aspect of the war.”

The two reports make it undeniable that the Australian government was violating the Refugee Convention, which specifically prohibits discriminatory or punitive measures against asylum seekers, and their deportation to face serious risks of persecution.

Nevertheless, the first Rudd government was publicly stepping up its deportations of Sri Lankan asylum seekers, and was set to extend the three-month freeze. On 20 May 2010 the then Immigration Minister Evans told reporters in Darwin: “The rate of refusal [of refugee applications] is climbing quite quickly.” Against all the evidence, he continued to claim that conditions are getting better in Sri Lanka and Afghanistan. Evans said that the cabinet would have made a decision the following month on whether to extend the freeze.

This ‘policy’ was continued after the dispatch of Prime Minister Rudd by the ‘Labor’ Caucus and the uncontested election of Ms. Julia Gillard to the position of Prime Minister. It remained unchanged as at May 2012.

By then the condition of asylum seekers had become even harsher by the operation of the Australian Security Intelligence Organisation.

By the end of May 2012 some 57 refugees being held by the Australian ‘Labor’ government faced the prospect of indefinite detention, potentially for life, due to secret and effectively unchallengeable ‘adverse security assessments’ issued by A.S.I.O.

Under the ‘mandatory detention’ regime introduced by the ‘Labor’ government in 1992, all non-citizens entering Australia without a valid visa are compulsorily detained, pending assessment by what was then called the Department of Immigration and Citizenship - D.I.A.C. As a result, thousands of men, women and children seeking asylum in Australia - from some of the world’s most impoverished and war-torn countries - are essentially imprisoned. For the past twenty one years Australia’s mandatory detention regime has openly violates international law.

As at 30 April 2012, according to a D.I.A.C. report, 4,329 people were being held in immigration detention centres and “alternative places of detention.” Of the detainees, “around 40 per cent were Afghan nationals, 14 per cent were Iranian nationals and 8 per cent were Sri Lankan nationals.” Over 10 per cent of the detainees were children - numbering 463 - who were held in ‘Immigration Residential Housing’ and ‘Immigration Transit Accommodation.’

Even if it determines that a detainee is a refugee, and is therefore entitled to protection in Australia under international law - which is the case with the majority of arrivals - D.I.A.C. still has the power to refer the refugee to A.S.I.O. for a security assessment. A.S.I.O.

is not required by legislation to perform this assessment within a specified time. If A.S.I.O. eventually issues an 'adverse security assessment', D.I.A.C. will not grant the refugee an Australian visa.

Those subject to an 'adverse security assessment' are cast into an administrative and legal black hole. As a signatory to the 1951 Refugee Convention, Australia cannot return (*refouled*) refugees who are unable or unwilling to return to their country of origin owing to a well-founded fear of persecution. At the same time, an adverse A.S.I.O. assessment means that refugees cannot be released into the community or sent to third countries. Instead, they remain trapped in indefinite detention.

According to a report published on 12 April 2012 by the Australian Parliament's Joint Select Committee on Australia's Immigration Detention Network, A.S.I.O. applies the sweeping definition of "security" contained in the *ASIO Act 1979* when making threat assessments. It includes espionage, sabotage, politically motivated violence, promotion of communal violence, attacks on Australia's defence system, "acts of foreign interference" and, even more broadly, "the carrying out of Australia's responsibilities to any foreign country" in relation to any of these matters.

Australian law ensures that refugees are effectively unable to challenge A.S.I.O.'s security assessments, and thereby the basis of their indefinite detention. Refugees are not allowed to see the secret evidence and specific reasons underpinning A.S.I.O.'s assessments, or even the criteria on which such assessments are based. As non-citizens applying for visas, refugees have no right under Australian law to contest the merits of A.S.I.O.'s decisions in the Administrative Appeals Tribunal. While refugees can ask federal courts to perform a judicial review, this is limited to a review for errors of law underpinning A.S.I.O.'s decision, rather than the substance of the decision itself.

An article published in the *Sydney Morning Herald* on 16 May 2012 described how two Tamils - both given adverse A.S.I.O. assessments - attempted to kill themselves in a Melbourne immigration detention centre. On 21 May 2012 the Australian Broadcasting Corporation's *7:30 Report* highlighted the plight of a Sri Lankan Tamil refugee - nicknamed 'Bonus.' He reported hearing noises in his ear for the previous two months, and more recently hearing voices and having hallucinations. Due to an adverse security assessment, Bonus has been detained for three years.

The Parliamentary Committee report found that symptoms of mental ill health, including “forgetfulness and confusion, frustration, anger, loss of appetite, anxiety, poor hygiene, insomnia, self harm, as well as thoughts of, and attempts at, suicide” were “commonplace” among long-term detainees. The Committee noted that “particular distress” was observed among detainees awaiting A.S.I.O. security assessments.

Prime Minister Gillard’s ‘Labor’ government’s harsh refugee detention regime, coupled with A.S.I.O.’s secretive assessment process, resulted in clear political purposes, as anyone could see. Its championing of ‘border protection’ from asylum seekers - characterised as “boat people” and “unlawful” entrants to Australia - would encourage divisive, xenophobic sentiments.

In the case of Tamil refugees, the ‘Labor’ government supported the Sri Lankan regime’s war against the Liberation Tigers of Tamil Eelam and, remained silent about its war human rights abuses. The overrepresentation of Sri Lankans among those given an ‘adverse security assessment’ by A.S.I.O. suggests that it relies on dubious information from Sri Lankan intelligence services which are notorious for their anti-Tamil chauvinism.

At mid-September 2012 two planeloads of Tamil asylum seekers from Sri Lanka had been ‘transported’ to live in military-style tents on the remote Pacific Island of Nauru.

The 66 Tamil men were just the first of more than 2,000 refugees who would be sent and detained indefinitely in primitive, health threatening conditions on Nauru or Papua New Guinea’s Manus Island, in complete violation of their basic human rights, as well as the Refugee Convention.

In a cruel, new ‘policy’ to deter and block refugees from seeking asylum in Australia, the Gillard government had gone far beyond the so-called ‘Pacific Solution’ of the Howard ‘Liberal’ government, which incarcerated people on Nauru and Manus Island for up to five years, causing trauma, mental ill-health and suicides.

As the Tamil men were ‘transported’ to Nauru, then Immigration Minister Chris Bowen and other senior Gillard ministers refused to put any time limit whatsoever on how long they would be held on the island. The government has imposed a so-called “no advantage” rule which meant that asylum seekers will be detained for as long as they would have had to wait

for a refugee visa if they had remained in their home country or an overseas refugee camp. Potentially this would mean years if not decades.

Under heavy security, the Sri Lankan men were loaded onto the flight from Christmas Island, an offshore Australian territory in the Indian Ocean. Reportedly, police and security personnel outnumbered the refugees on the first flights, in order to prevent any resistance. Upon arrival at Nauru's airport, the men were removed one-by-one from the plane by Australian Federal Police officers and bussed to the facility, which is surrounded by jungle and the country's only rubbish tip.

Another planeload of Tamils was expected later in September, followed by the first group of Afghan Hazaras. By then, the camp would house more than 150 asylum seekers. Ultimately, it was designed to hold 1,500 refugees, with another 600 on Manus Island.

At a Sydney press conference to announce the deportations, then Immigration Minister Bowen declared: "The message is very clear, if you arrive in Australia by boat you can be taken from Australia by airplane and processed in another country." He also emphasised that women and children would soon be deported to Nauru as well, declaring: "We are not going to provide loopholes for people to exploit."

This "message" exposes the lie that Labor's regime is directed against the so-called 'people smugglers' who organise refugee boat voyages - its aim is to force refugees to stop trying to sail to Australia by harshly punishing those who arrive.

Despite previous promises by Bowen that Labor's system on Nauru would involve a 'processing centre', not a detention camp, the site's inhabitants are forbidden from leaving. Bowen also announced that the Nauruan government had agreed to process the asylum seekers under local law, stripping them of any legal protections or appeal rights they might have under Australian law.

To give 'Labor's 'policy' a veneer of international legitimacy, the government's refugee panel, headed by former military chief Angus Houston, had urged that the United Nations High Commissioner for Refugees and the International Organisation of Migration be involved in administering the centres on Nauru and Manus Island, as they were under the Howard government. However, the agencies refused to participate, underscoring the unlawful nature of the new measures. Instead, the Nauruan government will decide on



refugee status, while the operation of the detention centres has been handed over to Transfield Services, a private Australian engineering firm, and the Salvation Army, a Christian charity.

‘Labor’s new ‘Pacific Solution’ regime was paving the way for even more draconian measures. The Liberal-National Opposition, which had joined hands with the government on its ‘Pacific Solution’, was demanding that it automatically return all Sri Lankan refugees because the island’s civil war was over. Despite the defeat of the Liberation Tigers of Tamil Eelam in 2009, the systematic persecution of Tamils continued.

An issue of the (Toronto) *Sri Lanka Guardian* of 21 September 2012 asked in a heartfelt way:

**“Has the Commonwealth lost its moral compass ?, Has the world forgotten the horror of Mullivaikkal ?”**

At about the same time as Sri Lanka was hosting the Commonwealth Parliamentary Association, C.P.A. meeting and getting set to host the Commonwealth Head Government Meeting scheduled for November 2013, Sri Lanka’s External Affairs Minister, Prof. Gamini Lakshman Peiris was anticipating the 2013 C.H.O.G.M. to become “a historic opportunity to showcase Sri Lanka.”

‘Show case’ alright ! But what Sri Lanka would not want to show are the skeletal remains of more than 40,000 Tamils buried in Mullivaikkal. Having successfully kept the C.P.A. delegates at bay from finding any clues to what *The (London) Times* called the “hidden massacre”, G. L. Peiris was complimenting himself by saying: “Those delegates would be able to effectively counter the false and malicious propaganda against Sri Lanka when they return home.”

The delegates may need to do some soul searching if indeed they never once asked the critical questions which needed to be asked of their host. But the Minister may have been reacting to what the Secretary General of the C.P.A., Dr. William Shija said “that he had really had a change of his negative perception of Sri Lanka after visiting the war affected area.” However the first person (up to the time of writing) who has said anything since leaving Sri Lanka’s shores is Tavish Scott who has written that “Human rights are of secondary concern in Sri Lanka.”

There are some serious issues the brazen attitude of the Commonwealth raises. Against the backdrop of a plethora of evidence already out in the public domain that war crimes were committed, coming from credible sources such as the United Nations Panel of Experts, that could lead to possible charges of genocide being levelled against members of the government, including President Rajapaksa and his brother Gotabaya.

The question remained: had the world forgotten the horror of Mullivaikkal ? For the Commonwealth it did not seem to matter, prompting another question: has the Commonwealth lost its moral compass ?

Dr. Shija did not appear to be bothered by Sri Lanka's war crimes history as he spoke of Sri Lanka's social and cultural vibrancy at his opening address at the C.P.A. meeting, with Chamal Rajapaksa in attendance: "I believe delegates will join me in having noted that Sri Lanka now appears to enjoy its peaceful atmosphere after years of conflict as we can see the indications of social and cultural vibrancy." he said in a prepared speech.

How can people confer and party with war criminals as if nothing had happened ? What was the Commonwealth doing in Sri Lanka holding an international conference where the Rajapaksa regime had only three years before presided over what in international law are defined as war crimes, crimes against humanity and genocide ?

President Rajapaksa's speech at the C.P.A. meeting showed himself lacking in integrity from beginning to end. He could have fooled his foreign audience but not those who know the truth. He talked of traditional parliamentary democracy when provisions were enacted, without real debate in parliament, which virtually turned his position into an executive presidency so powerful, one with no checks and balances, which would make him into a dictator, using increased political patronage further to strengthen his office and bolster his powers as he and his family filled their pockets, extracting a fee for every project, and every favour.

"We have continued this tradition of parliamentary democracy through the past 81 years, protecting it from those who plotted against it, both in uniform and through insurrection." Rajapaksa told his audience, when in fact, it was 'parliamentary democracy' to be needing protection from him.

Rajapaksa ended his speech by lending support to the Commonwealth: “Your efforts to promote parliamentary democracy by enhancing knowledge and understanding of democratic governance, and interest in building an informed parliamentary community among the member nations, has our strongest support.” It was another lie.

It is beyond belief that people sat there listening to such despotic talk to them about democratic governance, something which is alien to the Rajapaksa regime and his clan.

Was the Secretary General of the Commonwealth Kamallesh Sharma trying to say something to Rajapaksa when he addressed the meeting: “Parliament should be the primary forum where the voice of the people, especially the poor and the marginalized is heard with absolute clarity.” and “... that national parliaments, state assemblies and local councils ... in turn, serve the people by holding the executive to account and by ensuring democracy delivers for all.” ?

Instead, other than expressing his satisfaction at Sri Lanka’s preparation for the 2013 C.H.O.G.M. and his readiness “to deepen Commonwealth’s partnership with Sri Lanka in the years ahead through the Commonwealth Fund for Technical Cooperation in development assistance collaboration with Sri Lanka”, Sharma was comfortable conducting business as if nothing had happened. The Commonwealth website advised that, apart from at present strengthening the public service technical assistance, it will in the future pursue possibilities for new enhanced assistance in the following areas: “Public service strengthening, Youth entrepreneurship, Sports for Development and Peace in the North and East, Youth Ambassadors for Peace, strengthening of the Office of the Elections Commissioner, assistance in implementation of the Lessons Learned and Reconciliation Commission, legislative drafting capacity and strengthening of the media.”

The farce of October 2011 in Australia was on the way to being repeated, perhaps even improved in Sri Lanka.

There was no sign that the Commonwealth was going to change the 2013 C.H.O.G.M. In fact Kamallesh Sharma took the opportunity of the meeting to urge Canada not to boycott the 2013 meeting.

Ten human rights organisations had written an open letter to all Commonwealth Foreign Ministers. The letter called for a change of venue for the 2013 C.H.O.G.M., stating that the

consideration of Sri Lanka as host was “grossly inappropriate” citing continued human rights violations and the need for an international investigation.

Human Rights Watch, Sri Lanka Campaign for Peace and Justice, the Commonwealth Human Rights Initiative and the Centre for Policy Alternatives were among those which expressed concern. The letter said that “Awarding the next CHOGM to Sri Lanka would not only undermine the fundamental values on which the Commonwealth is based, but also has the potential to render the Commonwealth’s commitment to human rights and the promise of reforms meaningless.” and that “The fact that the host country of the CHOGM goes on to hold the chairmanship of the Commonwealth (from 2013 to 2015) is also a serious concern, stating that “Handing over leadership of the Commonwealth to a country with a questionable record in terms of human rights and democracy should not be the outcome of an event that will celebrate the twentieth anniversary of the Harare Declaration.”

The letter also outlined some bench marks to assess Sri Lanka’s suitability as host in 2013 which included the following: “1. bringing all legislation in line with international human rights standards 2. Supporting and cooperating with independent and credible domestic and international investigations 3. Committing to collaborate with the Office of the U.N. Secretary General to initiate the implementation of the recommendations set out in the report of the UN Secretary General’s Panel of Experts.”

In the meantime, the Toronto *Sri Lanka Guardian* was asking whether Tamils were “Children of a Lesser God.”

\* \* \*

The Australian government continued to put pressure on refugees to return to Sri Lanka.

‘Labor’ had already hailed the so-called ‘voluntary return’ of 48 asylum seekers to Sri Lanka as a victory for its revival of the ‘Pacific Solution’, involving the indefinite detention of refugees on remote Pacific islands.

Pursuant to that ‘voluntary return’, two groups of asylum seekers had been flown back to Sri Lanka at the end of September 2012, after reportedly ‘choosing’ this over incarceration for many years on Nauru or Papua New Guinea’s Manus Island. Vulnerable people were being

pushed back to Sri Lanka despite clear evidence that asylum seekers, particularly Tamils, are in grave danger of persecution and torture.

Prime Minister Gillard's government was blatantly violating refugees' basic human rights, including those enshrined in the Refugee Convention. Then Immigration Minister Chris Bowen openly stated that the government hoped that many more refugees would return to the countries they fled, and that asylum seekers would soon stop trying to sail to Australia altogether. "This government is determined to break the people smuggling trade and stop people getting on those dangerous boats," he declared. Contrary to the government's claim that it is acting "to save lives" by deterring boat voyages, the entire thrust of the brutal new refugee regime is to endanger their lives and well being.

Human Rights Watch has detailed 13 credible cases since the end of Sri Lanka's protracted civil war in 2009 where failed asylum seekers were deported from Europe and then tortured in their home country. 'Freedom from Torture', a British group which compiles medical reports of torture victims, has documented a further 24 cases in which 'voluntary returnees' had been tortured. These cases were likely to be the tip of the iceberg, because they involved incidents in which the victims managed to flee Sri Lanka a second time and find their way back to Europe.

The Sri Lankan government claimed that the 48 returnees from Australia were released soon after they arrived, but not before they were questioned by immigration officials and the police, including the Criminal Investigation Department and the Terrorist Investigation Department. There is a proven record of such returnees being later arrested and beaten, or 'disappeared'.

The Gillard government had stepped up its collaboration with the Sri Lankan military and President Rajapaksa's police-state apparatus in intercepting refugee boats sailing from Sri Lanka. Australian Federal Police based in Colombo were working closely with the Sri Lankan Navy and Coast Guard.

Sri Lankan High Commissioner to Australia, Admiral Thisara Samarasinghe told Australian Broadcasting Corporation's *Lateline* programme on 21 September 2012 that his government was grateful. "They are helping at the moment and we would like more co-ordination and this has been discussed," he explained.

The Sri Lankan authorities were boasting of having stopped 2,300 refugees within the country's territorial waters. Late in September 2012 Navy Commander Vice Admiral Jayanath Colombage told the Colombo *Sunday Observer*: "During the past two months we arrested over 1,000 illegal immigrants."

The alliance between the Gillard government and its successors and the Rajapaksa regime is in flagrant violation of the Refugee Convention, which prohibits a government from *refouling* (returning) asylum seekers to the countries they are fleeing because of persecution.

The 'Labor' government was closely collaborating with the Sri Lankan regime, and claimed that conditions were improving in Sri Lanka, based on assertions by the Colombo regime itself that no one, including Tamils, faced persecution.

In reality, the Sri Lankan government would have been known to lie about its numerous abuses of human rights in the same way that it denied that the military was responsible for war crimes during its operations against the L.T.T.E., when tens of thousands of civilians were killed.

The Gillard government, like the Howard government before it, was trying to bribe refugees to return, by offering them relocation packages of US\$ 3,300. Reports have already emerged of asylum seekers signing up to return, only to be denied the cash when they arrived in Sri Lanka, often on the spurious ground that they helped so-called people smugglers to organise their voyages. The International Organisation for Migration, a U.N. agency, confirmed that financial assistance had been refused to 7 of the 18 returnees in the first group flown out of Australia.

The 'Labor' government had sought to terrorise refugees by dumping 150 of them to live in military tents on Nauru, where it hoped to house 1,500 within weeks, then another 600 on Manus Island. Despite these measures, desperate asylum seekers have continued to sail to Australia, with more than 3,000 intercepted in 2012.

The Liberal-National Party Opposition decided to outdo 'Labor' by demanding that the government order the Navy to force all boats from Sri Lanka to turn back. The government was in fact already trying to do that, in partnership with the Rajapaksa regime.

The appalling conditions on Nauru had already provoked unrest among the first contingent of asylum seekers detained there. Three men were detained in a police station on the Pacific

island after there was a ‘disturbance’ at the refugee processing centre which reportedly caused damage to kitchens, tents and lights. Few details had been revealed about the incident.

Then Immigration Minister Chris Bowen declared: “We had a disturbance and this was because, unsurprisingly, some of the people don’t want to be there ... While any behaviour like this is completely unacceptable, when you have people that clearly don’t want to be there, you have to expect some damage from time to time.” He added that criminal charges may be laid by Nauru police.

On 17 December 2012 the Australian Foreign Minister, Bob Carr, concluded a four-day visit to Sri Lanka, during which he announced direct military cooperation, training and intelligence-sharing. Under the banner of combating ‘people smuggling’ - that is, stopping asylum seekers fleeing persecution - the Gillard government was further boosting its links with President Rajapaksa regime.

Amid talks with Rajapaksa and his senior ministers, Senator Carr revealed what he described as a plan to stop refugee boats sailing from Sri Lanka to Australia. It features intelligence sharing and other forms of cooperation with the Sri Lankan military, including Australian-based training programmes in “intelligence expertise” and “maritime air surveillance.” Australia would also supply additional resources to strengthen “the Sri Lankan navy’s on-water disruption capacity.”

By forging links with the Sri Lankan military, Foreign Minister Carr’s package would go beyond the collaboration that the Australian government initiated in November 2009, when Australia signed a statement in Colombo to cooperate in anti-refugee and ‘counter-terrorism’ policing, technology and intelligence-sharing. That agreement involved the Australian Federal Police and the Australian Secret Intelligence Service - Canberra’s overseas spy agency - working in tandem with their Sri Lankan counterparts.

The deal was initialled just six months after the Sri Lankan military defeated the separatist Liberation Tigers of Tamil Eelam following weeks of intensive bombardment, including by the shelling of hospitals and summary executions. Nearly a quarter of a million Tamils were then herded into detention camps.

Since the 2009 agreement, thousands of Sri Lankans - both Tamils and Sinhalese - have been intercepted on refugee boats by the Sri Lankan navy, with documented cases of

detention, interrogation, torture and disappearances. In 2012 alone, according to the official figures, boat voyages involving 2,900 people were 'disrupted,' and the Gillard government had arbitrarily deported more than 700 Sri Lankan asylum seekers since August 2012.

Those operations will now be enhanced by giving the Sri Lankan military access to intelligence data, possibly including information derived from questioning refugees in Australian immigration detention facilities. It was known that Sri Lankan officials had long sought access to the trove of information gathered by Australian officials who debrief Sri Lankans on Christmas Island.

Foreign Minister Carr's visit was largely driven by domestic political calculations, bound up with making Sri Lankan and other refugees scapegoats for rising unemployment and deepening cuts to education, health and other basic social programmes. In the lead up to the 2013 election the 'Labor' Party and the opposition Liberal National Coalition competed in a reactionary bidding war over who is tougher on refugees. The collaboration of the Gillard government with the Rajapaksa regime was clearly another demonstration of Australia's contempt for international law and human rights.

In a sign of closer ties, Foreign Minister Carr declared that Australia would support Sri Lanka, both politically and technically, for the 2013 Commonwealth Heads of Government Meeting in Sri Lanka. "Australia will be at the Commonwealth Summit next year and will provide Sri Lanka with the technical assistance necessary for a successful summit," he told local journalists.

The Colombo-based *Daily Mirror* reported: "When asked whether Australia would support Sri Lanka in the face of Canadian pressure not to attend the summit here, the minister said Canada needed to engage with Sri Lanka on issues of human rights." Senator Carr added: "There needs to be engagement with Sri Lanka by way of the Lessons Learnt and Reconciliation Commission's report to resolve any issues it may have with regards to human rights."

This attitude by the Australian government was not new - simply more brazen.

On 26 February 2013 an article in the *Sydney Morning Herald* reported the Human Rights Watch allegation that rape was being used as an instrument of torture by Sri Lankan security forces to extract confessions from suspected Tamil separatist supporters.



As a United Nations Human Rights Council meeting convened to examine Sri Lanka's civil rights record was beginning in Geneva, a report was released by Human Rights Watch. The 141-page report, 'We will teach you a lesson: Sexual violence against Tamils by Sri Lankan security forces', provided detailed accounts of 75 cases of rape and sexual abuse which had occurred from 2006 to 2012 in both official and secret detention centres throughout Sri Lanka. In the cases documented by Human Rights Watch, men and women reported being raped on multiple days, often by several people, with the army, police, and pro-government paramilitary groups frequently participating.

Thirty-one of the victims alleged that they were raped after the cessation of Sri Lanka's long-running civil war in May 2009.

The last case detailed in the report occurred in October 2012, but Human Rights Watch said that the practice was continuing and that the 75 cases outlined represented a small fraction of the total sexual assaults.

"The Sri Lankan security forces have committed untold numbers of rapes of Tamil men and women in custody." Brad Adams, Asia director for Human Rights Watch, said. "These are not just wartime atrocities but continue to the present, putting every Tamil man and woman arrested for suspected L.T.T.E. involvement at serious risk."

The Sri Lankan government dismissed the allegations as fake and as Tamil separatist propaganda. A Sri Lanka's military spokesman rejected all of the allegations, saying they lacked credibility. He said that the report consisted of "fabricated allegations" and "good creative writing."

The Sri Lanka's High Commissioner to India said that there was no evidence to substantiate the claims. He said that the testimonies of the 41 women, 31 men and three boys were likely made by "economic refugees" who "need a good story" to claim asylum. "Until we do a proper inquiry - said the Sri Lanka Commissioner - we have to believe that these are all sob stories for the sake of obtaining asylum or refugee status in a developed country."

This outrageous branding of asylum seekers as opportunistic 'economic refugees' would soon become the *Leitmotif* of the Australian Foreign Minister Senator Carr's public statements.

Of course, there was no evidence to support the Foreign Minister claim that the asylum seekers - and the Sri Lankans in particular - were 'economic migrants'. This would not stop Senator Carr from claiming with a faked air of seriousness that "They are not people fleeing persecution. They are coming from majority religious or ethnic groups in the countries they are fleeing, they are coming here as economic migrants." Senator Carr would tell the Australian Broadcasting Corporation *Lateline* programme on 26 June 2013.

The Foreign Minister would repeat the accusation while visiting Indonesia two days later. Asked what evidence he had to support that assertion, he intimated: "I would need to get that out of our, out of the Immigration Department, but as I have looked at data about recent vessels, it's just been, it's been 100 per cent, it's been 100 per cent."

When the A.B.C. chased up the 'information' it found that neither Senator Carr's office nor the Immigration Department were able to produce evidence to support the claim. But this would not stop Senator Carr: "The point is, the evidence has shifted under our eyes. A few years ago you could say that most of the people had some case to make about fleeing persecution. Now that's changed."

In fact, the Australian government had stopped processing new boat arrivals in August 2012. Processing had resumed on 1 July 2013. That long gap alone made it difficult to assess Senator Carr's claims.

Caught by the trap, Senator Carr's office told the A.B.C. that the evidence was contained in 'confidential Cabinet documents'. The Minister was prepared to disclose something of that 'proof' in an opinion article for *The Sunday Telegraph* of 7 July 2013 which contained selective data on recent arrivals.

Senator Carr himself wrote that of the last 135 boats to arrive in Australian waters, just two were not piloted by 'people smugglers'. He cited two boats carrying Sri Lankans which had arrived in October 2012 and May 2013. The October boat was carrying 15 Sri Lankans, "all of whom were sent back." he wrote. "Most admitted coming here to work." The May boat was carrying 71 people. "Of 63 passengers subject to Australia's enhanced screening process, all were screened out and will be returned to Sri Lanka." he wrote.

The bulk of people arriving in Australia by boat had come from Afghanistan, Iran, Pakistan and Sri Lanka. During the financial year 2011/2012, 71 per cent of people arriving by boat were found to be refugees by the Immigration Department.

Arrivals would undergo an 'initial assessment interview' when the Immigration Department would decide whether they were eligible to make a claim for refugee status. Only if a person triggers the refugee process would s/he be eligible to claim refugee status.

If that claim was unsuccessful, then the applicant could have applied to the Refugee Review Tribunal to overturn the decision. Of those who appealed their refusal last financial year, almost 65 per cent were subsequently granted refugee status by the Tribunal.

The Immigration Department's then available quarterly data combining those assessed by the Department and those dealt with by the Tribunal showed that 90.5 per cent of people who arrived by boat were found to be refugees in the first three months of 2013.

The President of the Human Rights Commission, Prof. Gillian Triggs, had said recently that there was no evidence to support Senator Carr's claims because the Immigration Department suspended processing for almost a year between August 2012 and July 2013. "When we were assessing asylum seeker claims [made before] 13 August [2012], approximately 90 per cent of claims for refugee status were found to be valid." she told *Lateline* on 1 July 2013.

They were assessed by the Australian processes genuinely to be refugees. Now that suggests that at least until the moment when the government stopped assessing claims, the genuineness of the overwhelming majority of them was very clear on the evidence.

So I think that Senator Carr is making an assumption for which there's no evidence."

Not all of Senator Carr's colleagues agreed with his comments either. "It is not my view that 100 per cent of recent arrivals are economic refugees." Health Minister Tanya Plibersek said on the A.B.C. programme *Q&A* [Questions and Answers] programme on 1 July 2013.

Hence, on the available evidence, Senator Carr's claim that 100 per cent of recent arrivals were economic migrants remained totally unsubstantiated. *Iipse dixit !*

But the web of deception would not stop there. On 26 August 2013 then Prime Minister Rudd was expected to announce a major policy shift in asylum seekers as he prepared to announce a date for the federal election.

The overall rate of asylum seekers had increased during the year - and Iranians had become the largest group of people arriving by boat.

In July 2013 then Foreign Minister Carr had said that he believed the spike of arrivals from Iran indicated that many, if not all, were economic migrants.

“The fact is, these people are middle-class Iranians. They are leaving their country because of the economic pressures.” he had told the A.B.C.’s *AM* programme.

Professor William Maley, Director of the Asia Pacific College of Diplomacy at the Australian National University said there was no evidence to support Senator Carr’s claim.

“It is virtually impossible to know that, and Senator Carr certainly cannot know that because since the 13th of August [2012] the Immigration Department has not been processing applications for asylum from people arriving by boat.” Prof. Maley said.

He added that Senator Carr was “talking through his hat and drawing on stereotypes on refugees.” And added that just because someone is from the middle-class does not mean that they are not refugees. “Somebody could easily be a member of an ethnic or religious minority in a country and still have a well-founded fear of being persecuted under a convention reason.” he said.

Of the 15,182 asylum-seekers who have arrived by boat in Australia up to August 2013, 5,054 had come from Iran - a marked increase on the 2,749 Iranians who had come in the full 2012 calendar year.

One option to stop the flow of asylum seekers from Iran was to extend the governments so called ‘enhanced screening’ programme - of which more later. The Australian government had applied ‘enhanced screening’ to send more than 1,000 asylum seekers from Sri Lanka straight home, just days after they had arrived.

But Prof. Maley said that the Iranian government would have to agree to take Iranian asylum seekers back.

“The government of Sri Lanka is happy for people of that country to be returned. Iran has taken a different position that it’s not setting up to welcome back people who’ve sought asylum in other countries. And Australian officials are reportedly seeking to pursue an agreement with Iran by which such returns could be carried out. But the Iranians would probably demand a price for that.”

Prof. Maley said that if the Australian government was serious about preventing deaths at sea, the Prime Minister Rudd would need to boost Australia’s refugee resettlement numbers.

“If Australia were to think of resettling, 20,000 to 30,000 people from a country like Indonesia that would break the back of the people smuggling networks because the realistic prospect in Indonesia of being resettled would be high enough for the boat voyage to look like an unappealing option.”

But, Prof. Maley said, that would cost more money. “In a way this will test if political leaders really care about preventing deaths at sea or if they are only prepared to do so if you can do so on the cheap.” Obviously it had all become too difficult - *Ipsedixitism* would be mobilised to save Senator Carr’s face - at least for the time being.

\* \* \*

To return now to the cases documented by Human Rights Watch, the 75 case studies presented by the organisation bore strong similarities, all allegations - the organisation said - have been corroborated by medical and legal reports.

Many of the cases followed a pattern of an individual being abducted from home by unidentified men, taken to a detention centre, and abusively interrogated about alleged L.T.T.E. activities, Human Rights Watch said.

The Human Rights Watch report went on to provide crushing examples of the techniques used by Sri Lankan government agents.

Interviewees told Human Rights Watch that military and police personnel seldom made any effort to disguise being members of state security forces. These included the military, military intelligence and the police, including specialised units such as the Criminal Investigation Department and Terrorism Investigation Department. Victims frequently reported that members of several state agencies would together conduct abusive interrogations. They also identified the specific camps and detention sites where the abuse occurred.

Australia had previously raised some polite concerns about government-sponsored torture and abuses in Sri Lanka.

In November 2012, at a meeting of the United Nations' Universal Periodic Review, the Australian government told Sri Lankan representatives that their government must "take action to reduce and eliminate all cases of abuse, torture or mistreatment by police and security forces" as well as "all cases of abductions and disappearances."

In February 2013 the United Nations Human Rights Council was to examine whether the Sri Lankan government adequately followed up on its commitments in a March 2012 resolution to provide justice and accountability for wartime abuses. The Council would have directed the U.N. High Commissioner for Human Rights, Dr. Navi Pillay to conduct an independent international investigation, Human Rights Watch said.

Opening the Human Rights Council session in Geneva on 25 February 2013, the U.N. Human Rights Commissioner grouped Sri Lanka with countries such as Rwanda, the Palestinian territories, Iraq and Afghanistan as countries where human rights abuses had gone unpunished.

"There are still far too many people with command responsibility who escape justice for serious crimes and gross human rights violations . . . massive violations have occurred in . . . Sri Lanka." Dr. Pillay said.

In March 2013, confronted by new photographic evidence of one of his regime's war crimes, President Rajapaksa denied the military's culpability for the killing of V. Balachandran, the 12-year-old son of V. Prabhakaran, the former leader of the separatist Liberation Tigers of Tamil Eelam.

In an interview with *The Hindu*, an Indian daily, on 2 March, Rajapaksa claimed that : “Had it happened, I would have known [it]. It is obvious that if somebody [from the armed forces] had done that, I must take responsibility. We completely deny it. It can’t be.”

Rajapaksa’s flat denial reveals nervousness about the mounting documentation of the human right abuses committed by his government during the war that ended with the LTTE’s defeat in May 2009. According to Rajapaksa, one should simply accept his assurance that his armed forces committed no war crime and that therefore he was not responsible for the killing.

A recent video, produced by *Channel 4*, a London-based TV channel, screened two new photos believed to be of the child Balachandran’s last moments. One photo showed him in army captivity in a small bunker made of sandbags. The other showed him eating a snack in the same location. These two pictures are related to another photo, contained in a video released in 2012 year entitled ‘No Fire Zone: The killing fields of Sri Lanka’, in which Balachandran’s dead body lay on the ground with five bullet wounds in the chest.

*Channel 4* video director Callum Macrae said the three photos completed the story that the army captured Balachandran, and might have questioned him about the whereabouts of his father, before shooting him. The new photos confirmed that Balachandran was not killed in crossfire, as the Sri Lanka military claimed, but was shot in captivity, Macrae said.

The video, with the new photos added, was screened at the Geneva headquarters of the U.N. Human Rights Council to the delegations attending the U.N.H.R.C. annual meeting, where a United States draft resolution called for international monitoring of ongoing human rights violations in Sri Lanka.

Mr. Macrae quoted an assessment by prominent forensic pathologist, Professor Derrick Pounder, of the picture of Balachandran’s dead body: “There is a speckling (on the skin) from propellant tattooing, indicating that the distance of the muzzle of the weapon to this boy’s chest was two to three feet or less. He could have reached out with his hand and touched the gun that killed him.” Forensic experts concluded that there was “no fabrication” involved in the photo.

Rajapaksa’s denial in the face of documentary evidence underscores his government’s contempt for evidence of gross human rights violations, including war crimes. His

government had stridently opposed any investigation into such allegations, for the obvious reason that it could reveal the truth.

Defence Secretary Gotabhaya Rajapaksa, the president's brother, declared that the documentary "had been obviously produced at the behest of the U.K. Global Tamil Forum and others still supporting the L.T.T.E.'s macabre Eelam project."

Regardless of the evidence, President Rajapaksa and his defence secretary routinely brush aside any accusation of war crimes, as a "conspiracy" by "terrorists". On 19 May 2009, just a day after the L.T.T.E. was defeated, the president claimed that the Sri Lankan military was engaged in a "humanitarian operation" with "zero casualties". Anyone killed during the war was a victim of the "L.T.T.E. terrorists." he insisted.

A United Nations expert panel report released in December 2011 found there was credible evidence that the military had killed at least 40,000 civilians, attacked hospitals and schools and shelled so-called no fire zones - actions which amount to war crimes. Extra-judicial killings and disappearances had also been carried out with impunity.

To appease mounting criticism in the country and internationally, Rajapaksa appointed the hand-picked Lessons Learnt and Reconciliation Commission to whitewash the war crimes. It made limited findings, proposing to investigate disappearances and extra-judicial killings, disarm paramilitary cliques, gradually demilitarise the island's north and east, and devolve some powers to the Tamil capitalist *élite*. Rajapaksa then shelved the Commission's report.

Rajapaksa and his government were now facing another U.N.H.R.C. resolution, sponsored by the United States, insisting that Sri Lanka implement the L.L.R.C.'s proposals. Washington administration and its allies criticised the Sri Lankan government for not taking steps to do so, in line with a U.N.H.R.C. resolution passed in March 2012.

The United States and other major powers supported the Rajapaksa government's war efforts but then cynically exploited its human rights violations to put pressure on Rajapaksa to distance himself from China.

In his *Hindu* interview, Rajapaksa appealed to the 'western' powers "not merely look [to] at one side." adding: "They [the US and EU] must not listen to one group and opposition." He was seeking to mend fences with these powers, yet his government had increasingly relied on Chinese loans to keep the Sri Lankan economy afloat.



Rajapaksa lamented: “Sri Lanka is like a volley ball. Everyone is taking turns punching it to cover up their sins.” He did not specify who was “punching” and “covering up sins.” Rajapaksa has in the past resorted to obliquely criticising the ‘western’ powers for their own war crimes, as a means of whipping up nationalist sentiment and depicting his government as the victim of an “international conspiracy.”

On 21 March 2013 the United Nation’s Human Rights Council passed a resolution, the third in four years, concerning Sri Lanka’s conduct towards Tamils. The vote was 25 for, 13 against with eight abstentions. Those opposed rejected any criticism of Sri Lanka as “foreign meddling.”

The U.S.-led resolution A/HRC/22/L.1, “Promoting Reconciliation and Accountability in Sri Lanka”, “noted” that the National Action Plan put forward by Sri Lanka to implement the recommendations made in its own Lessons Learnt and Reconciliation Commission “does not adequately address serious violations of international humanitarian law.” Sri Lanka’s government was then called upon to conduct an “independent and credible” investigation into allegations of human rights violations.

One paragraph went a bit further than the previous U.S.-led resolution in 2012. It expressed “concern at the continuing reports of violations of human rights in Sri Lanka, including enforced disappearances, extra-judicial killings, torture and violations of the rights of expression, association and peaceful assembly, as well as intimidation of and reprisals against human rights defenders, members of civil society and journalists, threats to judicial independence and the rule of law, and discrimination on the basis of religion and belief.”

The resolution simply concludes by suggesting further reports “monitoring progress.”

A day before the vote, the largest pro-Tamil protest in years took place with upwards of 1 million people in India’s Tamil Nadu state. They denounced the U.S.-led resolution as ‘ineffectual’ for calling upon the Sri Lanka government to investigate itself. Protesters demanded that the Sri Lanka government be investigated by an independent international body for its war crimes and genocide against the Tamil people.

Critics assert that the United States and Europe are not seriously advancing the rights of Tamils nor actually sanctioning the Sri Lanka government for its brutal war crimes, and

certainly not its 65-year-long genocide against the minority Tamils. They point out that the United States, Israel and N.A.T.O. countries, always aided the Sri Lankan government.

The 'western' powers had continuously provided Sri Lanka's military with weaponry, money, counter-intelligence and training to win the long war against Tamil nationhood. Then, since the end of the war, the 'western' powers criticised the Sri Lanka government for having committed excesses.

China, Russia, Iran, India and Pakistan also militarily and economically assisted Sri Lanka governments in avoiding federalism for the two peoples - majority Sinhalese and minority Tamils, yet they did so without the hyperbole of 'protecting human rights'.

The new resolution has not ceded to demands of human rights bodies and almost all Tamil political parties and grassroots organisations for an independent international investigation, which U.N. High Commissioner for Human Rights Dr. Pillay also asserts is necessary.

She has consistently upheld the findings of the 'Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka' delivered to Secretary-General Ban Ki-moon on 31 March 2011.

The new resolution was virtually the same as the one put forth by the United States in March 2012, when the U.N.H.R.C. made a shift from the pro-Sri Lanka resolution of May 2009. In March 2012 a majority voted to criticise the Sri Lankan government for "not adequately address[ing] serious allegations of violations of international law" when conducting its final phases of war against the Liberation Tigers for Tamil Eelam. Nevertheless, the statement simply asked the government to investigate itself!

Despite the U.N. panel of experts' 214-page report and recommendations, and those of the High Commissioner, no session of the Human Rights Council has discussed those recommendations.

After four years of getting nowhere, great numbers of Tamils had awakened.

According to news reports, President Rajapaksa lambasted the U.S.-supported resolution at the U.N. Human Rights Council against his country, and said that such "attacks would not defeat or intimidate" Sri Lanka. "This attack would not surprise us at all. These attacks would

not subdue us either, nor would they defeat or intimidate us in any way.” he added. He also termed all allegations against his Government as “false accusations with ulterior motives.”

Some pro-Tamil groups were calling upon the Commonwealth Ministerial Action Group to prevent the Sri Lanka government being rewarded by hosting the Commonwealth’s meeting next November.

The moderate Sri Lanka Campaign for Peace and Justice wrote: “If the Commonwealth continues as usual then the Government of Sri Lanka will be able to use this to whitewash their crimes, and derail the process of reconciliation. The cycle of violence will continue.”

The group initiated a petition attempting to pressure Commonwealth countries to follow “the Canadian Prime Minister’s example and announcing that if the summit happens then they will not go.”

The U.N.H.R.C. passed the U.S. sponsored resolution (A/HRC/22/L.1/Rev.1) on Sri Lanka at its 22nd session at Geneva on 21 March 2013.

The result was not unexpected. However, the content and wording of the resolution was stronger than the U.N.H.R.C.’s 2012 resolution on Sri Lanka. It makes accountability in observing international human rights laws as its primary focus and has called for a “credible and impartial investigation” into such violations. This is important as it reflects the lack of faith in what Sri Lanka has done so far. Equally important is the reference to the continuing fundamental rights violations in the country.

The resolution also recognises the report of the Human Rights Commissioner Dr. Navi Pillay and her recommendations to inquire into alleged violations of international law. In view of this, when the resolution comes up for review in 2014, more baggage could be added to it unless Sri Lanka is able to convince members of the progress it has made.

Sri Lankan representative’s speech on 21 March showed lack of specific strategy to handle issues raised at the current U.N.H.R.C. session though its broad contours were indicated by three visiting senior bureaucrats of Washington as early as November 2013. Sri Lankan representative’s speech still focused upon procedural issues and rather than meaty issues relating to mounting allegations of human rights violations and war crimes and other substantive issues raised in Dr. Pillay’s report. Even if Sri Lanka did not recognise her report, the speech could have addressed them.

A second aspect relates to floor management of voting. With the U.S. and the EU supporting the resolution which was sponsored by 41 U.N. members, the chances of success were high. Last time, even the muscular support of China and Russia could not bale out Sri Lanka. In their absence, active support of India and Brazil - both influential powers beyond their geographical regions - was required to defeat the resolution. However, apparently Sri Lanka's efforts did not produce the results. Indian vote was probably conditioned by internal compulsions. However, Brazil voted in favour of the resolution probably in view of its increasing international role, beyond regional limitations.

After the 2012 U.N.H.R.C. experience, Sri Lanka should have foreseen India's difficulty in voting against the U.S. resolution in 2013 as the ruling coalition became more dependent upon external support than ever before for survival. The Dravida Munnetra Kazhagam has been trying to change its image of a fellow traveller of the Congress-led coalition to an ardent supporter of Tamil Eelam as it battles for survival against the All India Anna Dravida Munnetra Kazhagam. It has chosen the Sri Lanka issue as a convenient foil to fight for its flock in Tamil Nadu.

Sri Lanka Tamils and the U.N.H.R.C. resolution became critical issues even for national parties including the Bharatiya Janata Party and the Congress when there was an emotional surge in Tamil Nadu after the publication of photos of alleged custodial killing of Prabhakaran's son's. So New Delhi had little manoeuvring space other than supporting the U.N. resolution.

Initially, India perhaps did the next best thing to make the resolution more acceptable to Sri Lanka so that a voting could be avoided. Sri Lanka was reluctant to accept this 'diluted' draft, it seems. Apparently India's well meaning effort had a strange reaction from the Rajapaksa brothers. They appear to be only interested in using the issue to strengthen their nationalist credentials rather than bringing it to a smooth closure as evident from their statements appearing in the media.

An *Island* news report on the subject said: "Responding to a statement attributed to Sinha [Indian representative at the U.N.H.R.C.] that Sri Lanka should address accountability issues to the satisfaction of the international community, the Defence Secretary [Gotabaya Rajapaksa] told *The Island* that those wanting Sri Lanka to satisfy the global community should realise that they were adopting double-standards. In fact, they would never have

tolerated external intervention in domestic issues, though Sri Lanka was being asked to give into an investigation on the basis of unsubstantiated allegations. ... Would India address its accountability issues to the satisfaction of Western powers or the U.N. ? The Defence Secretary asked, while pointing out that no one was talking about the accountability of those godfathers of terrorism here.”

On 26 April 2013 Australia’s Foreign Minister Carr was in London, attending a meeting of the Commonwealth Ministerial Action Group.

In a wide ranging interview with the Australian Broadcasting Corporation *Lateline* programme that evening, Senator Carr came to deal with Sri Lanka.

To the question: “Are you comfortable attending the Commonwealth Heads of Government Meeting if it is to be held in Sri Lanka in November ?”

Senator Carr replied: “Yes, I am. I think the concerns we’ve got about human rights in Sri Lanka are best met through engagement with that country and through the Commonwealth, using the extra leverage we will enjoy in the count down to that CHOGM meeting, that CHOGM summit. I registered in all my meetings with the leaders of Sri Lanka, including President Rajapaksa, our concern for a full settlement, a full accountability for the things that happened at the end of that civil war. Australia voted in the Human Rights Council in Geneva for the resolution that was carried on accountability, on human rights in Sri Lanka. But our view is that any suggestion of a boycott would be counterproductive. It would simply isolate the country and render it defiant of international opinion.”

Q.: “But what if that settlement, as you call it, that accountability, isn’t forthcoming, especially if it’s not forthcoming before the CHOGM meeting in November ?”

Carr: “The Secretary-General of the Commonwealth and the UN itself has registered that there have been improvements in the country. Our challenge is to keep the pressure on to see there are further improvements, especially directed at reconciliation in the north. People have been in the north, they’ve told me they have seen former Tamil Tigers, that is fighters using terrorist means, now being rehabilitated, being employed, gainfully employed, being reintegrated into that community. One’s got to remember when we talk about Sri Lanka, this is no ex-case of course, the persistent - persisting human rights abuses for falling shorts of the standards the country itself has set but one’s got to remember that for three-and-a-half

decades this country was subject to the most violent civil war. You have got to remember that this represents a trauma. You have got to remember there are abuses over those 30 or more years committed by both sides but you have got to remember there was an extremism about that civil war and the world tended to look the other way while it took place. So we will be there in the forefront of nations in the Commonwealth in the world community looking for delivery on the benchmark standards Sri Lanka itself has set.”

Q.: “Are you satisfied that the Sri Lankan Government is not engaging, right now, in human rights abuses ?”

Carr: “I think some of the stories that have been put to us, when we have checked them out, haven’t been sustained.”

Q.: “How have you checked them out, if you don’t mind me asking ?”

Carr: “Let me be very specific. We have returned 1,000 failed asylum seekers who come from Sri Lanka ...

Q.: How do you deem them to have failed ?”

Carr: “Well, let me spell it out. We have returned 1,000. Four of them, four of them have come to the High Commission ... and expressed concerns about their treatment by the Sri Lankan authorities after being returned. Four out of 1,000. When our High Commission in Sri Lanka has investigated them, it found in two cases the allegations could not be confirmed. There was absolutely no evidence of an abuse of human rights and in two other cases. They are still investigating because the complaints were made recently. So I’ve been with our High Commissioner when we have met, the Foreign Minister of Sri Lanka, when we have met the President of Sri Lanka and she confirmed, I persisted in raising our concern with the human rights performance of the country and in particular pressed the country about delivering on its own benchmarks expressed in the reconciliation and lessons learnt document they have subscribed to. I can assure you our High Commissioner misses no opportunity to continue to press for a full accounting for the events around the civil war.”

Q.: “The Canadian Prime Minister Stephen Harper isn’t buying the Sri Lankan Government’s denials it has deliberately killed any Tamil civilians. Malcolm Fraser, ex-Australian Prime Minister also doesn’t believe the Sri Lankan Government on this score. What gives you that confidence ?”

Carr: “We have seen no evidence of that, Emma. It’s not unreasonable to ask for evidence. I’ve just come from a meeting of the Commonwealth Ministerial Action Group. I’m vice chairman of that group and in the discussion about Sri Lanka, no one, no one presented a case for the CHOGM meeting not being held in Colombo. Apart from Canada, I can identify no other country in the 55 member Commonwealth that would not be represented at Colombo. I’m not aware the Canadians have made a final decision on that.”

Q.: “What deal has Australia done with the Sri Lankan Government to stop the asylum seeker boats leaving Sri Lankan shores ?”

Carr: “It’s no deal. It’s a very public commitment that both of us made. When I visited Sri Lanka in December, but it’s a commitment both parties have confirmed as part of a 38 nation conference on the Bali process a month ago. All nations in our region are committed to stopping the trafficking in persons, because it is a great human rights abuse, and stopping one aspect of that which is people smuggling. We want the Government of Sri Lanka to work hard to see that people smugglers aren’t luring Sri Lankans to go out on the high seas in their unseaworthy vessels with the promise that after paying thousands of dollars, they’ll get them into Australian waters. That is simply wrong and we make no apologies for talking to the Sri Lankan Government about them increasing their efforts to stop the crime of people smuggling.”

\* \* \*

By sheer coincidence, on the very same 26 April 2013 the Canadian Foreign Minister John Baird told *Channel 4 News* that he was “appalled” that the Commonwealth heads of government meeting may still take place in Sri Lanka despite concerns over human rights in the country. He added “We had hoped that the leader's summit being in Colombo at the end of this year would see progress on accountability for the war crimes that took place at the end of the war, that it would mean some meaningful effort at reconciliation with the Tamil population, and that we would see improvements in good governance and respect for human rights.”

“Regrettably, we haven’t seen any of these three - and in fact they’ve gotten worse...It’s obviously not a good day for the Commonwealth.” but that its secretariat was going ahead with plans to host the heads of government meeting in Sri Lanka in November. He expressed

fear that the Commonwealth position on Sri Lanka was making the body look increasingly irrelevant in the modern world.

Sri Lanka would also take on the chairmanship of the Commonwealth after the summit - amid mounting concerns that some of the Commonwealth's key democratic values were being ignored in the country.

Mr. Baird, speaking in London after the same meeting of Commonwealth foreign ministers attended to by Senator Carr, told *Channel 4 News*: "We are appalled that Sri Lanka is going to be hosting this summit." ... "The Canadian prime minister has been very clear that unless we saw progress on accountability, on reconciliation, and some sort of change on the growing authoritarian trend we've seen in the country, that he wouldn't attend the summit." He acknowledged that at that point Canada was the only Commonwealth country taking such a strong position on Sri Lanka.

At a press conference after the meeting, the Secretary General of the Commonwealth, Kamallesh Sharma, appeared to contradict the Canadian position when he told reporters that "no member government had indicated remotely that it wished to change the venue."

Kamallesh Sharma added: "All member states subscribe to the same principles and values equally. Interacting with them [Sri Lanka] on many fronts as I have been doing at all levels, I am fully persuaded that they are sincere in subscribing to and following those values [of democracy and protection for human rights]."

He also defended the C.H.O.G.M. decision, saying that he had found Sri Lanka to be "engaged and willing" to improve itself through measures such as institution-building.

Sharma denied suggestions that the Commonwealth risked compromising its credibility by refusing to take Colombo to task over [accusations of war crimes, torture](#) and institutional corruption - or for [its failure to bring to justice the alleged killers of Khuram Shaikh, a British man who was murdered on the island in 2011](#).

"I think the credibility of the Commonwealth is increasing right now because as far as the judicial sector is concerned, we are the ones who are working with them on what can be a solution to the pluralities and institutional confrontations that they've had in the past." he said. "I think the way in which we are acting and the way in which we are planning to make



real progress on the ground is actually a sign of this institution's relevance in the difficulties which are faced by member states rather than the other way around."

At mid-April, the Commonwealth Lawyers Association had passed a resolution calling for Sri Lanka's suspension from the Commonwealth altogether. But discussion of even moving the location of C.H.O.G.M. did not make it onto the formal agenda of 26 April 2013 foreign ministers' meeting. "It would have been a logistical nightmare to change the venue," said a Commonwealth source.

Another senior insider told *Channel 4 News* that Sri Lanka's Minister of External Affairs, Professor G.L. Peiris, had informed the Commonwealth Secretary General, Kamallesh Sharma, that placing discussion of Sri Lanka on the meeting's formal agenda would set a dangerous precedent, enabling Commonwealth countries to interfere in each others' internal affairs. This - he reportedly said - could lead to the disintegration of Commonwealth values.

But Sri Lanka's critics say that Colombo's hosting of C.H.O.G.M. and its subsequent two-year chairmanship of the Commonwealth would undermine these "shared values", as set out in the new Commonwealth Charter - signed by the Queen on 11 March 2013. The charter lists democracy, human rights, freedom of expression, judicial independence, rule of law and good governance among "shared values" it seeks to promote. Sri Lanka's record in all these areas has been questioned at the highest level.

Hugh Segal, a Conservative Canadian senator who had been dispatched by his country's prime minister on a fact-finding tour of Sri Lanka, was excoriating in his criticism of the regime in Colombo, when interviewed by *Channel 4 News*.

"My assessment, frankly, is that the space for democracy and dissent is being radically reduced," he said. "Ensuring that there is no broad democratic expression - and that of course is a complete violation of Commonwealth values - freedom of the press, freedom of expression, freedom of association ... we come away with a sense that the situation was getting worse and not better." "And that", he added, "is without even addressing the issue of the impeachment of the chief justice by non-constitutional means."

The Queen was due to attend the meeting in Sri Lanka as head of the Commonwealth. Prime Minister David Cameron was also on the list, but the British government had as yet made no decision about a possible boycott in protest at the situation in Sri Lanka.

On 11 March 2013 former Foreign Secretary David Miliband described the idea of the Queen visiting Sri Lanka for C.H.O.G.M. as “grotesque,” if the meeting was to be hosted by what he called a repressive regime, fast “moving towards pariah status.”

Speaking exclusively to *Channel 4 News*, former Conservative Foreign Secretary Sir Malcolm Rifkind likened it to Pretoria hosting a C.H.O.G.M. meeting while South Africa was under *Apartheid*.

“I think it’s a mistake for Sri Lanka to be invited to host the heads of government meeting.” Sir Malcolm told *Channel 4 News*. “The present Sri Lankan government has done very little to address the human rights issues; tens of thousands are still displaced; there has been no political reform, the rule of law has been traduced - the chief justice was recently sacked - and there’s not been any independent investigation into what was probably the mass murder of Sri Lankan Tamils.”

This ‘Sri Lanka issue’ was known to be an area of concern to the Foreign and Commonwealth Office, which, in a statement to *Channel 4 News*, said it was yet to decide whether it would boycott the C.H.O.G.M. in November.

For the second time in two years, on 21 March 2013, the United Nations Human Rights Council had voted to urge Sri Lanka to carry out credible investigations into killings and disappearances during its bloody civil war. Resolutions such as that brought by the United States are not binding, but the scrutiny by the U.N. Human Rights Council maintains pressure on the government to pursue perpetrators of crimes committed in the conflict against Tamil Tiger rebels. U.S. ambassador Eileen Chamberlain Donahoe said: “Sri Lanka must take meaningful action on reconciliation and accountability and address growing concerns over the deteriorating human rights.”

Even more recent events, such as the impeachment of the country’s chief justice, reports of torture of Tamils deported from the United Kingdom, and the shooting of a journalist had

only heightened concerns. The Sri Lankan government continued to deny all allegations of abuses.

The *crescendo* of international disquiet surrounding the C.H.O.G.M. includes Nobel Peace Laureate Archbishop Desmond Tutu and the former U.N. Human Rights Commissioner Mary Robinson. They had co-authored an article in *The (London) Times* of 11 March 2013 urging the Commonwealth to reconsider appointing Sri Lanka as its chair.

In February 2013 U.N. Human Rights Commissioner Dr. Navi Pillai re-stated her “long-standing call for an independent and credible international investigation” into human rights violations and war crimes in Sri Lanka.

The eminent human rights lawyer, Geoffrey Robertson Q.C., has also said that the Commonwealth risked becoming “a laughing stock.” He branded the organisation “leaderless and rudderless” and said “if it goes to (Sri Lankan capital) Colombo, we need never bother with it again. It will be a mockery.”

In February 2013 Mr. Robertson had published a damning report commissioned by the Bar Human Rights Committee of England and Wales which investigated the impeachment in January of Sri Lanka’s Chief Justice. It accused the government there of subverting the independence of judges.

“Sri Lanka has breached the most fundamental aspect of democracy, namely the separation of powers and the independence of the judiciary.” Mr. Robertson told *Channel 4 News*.

He said it would be “obscene” if the Queen were to shake hands with President Rajapaksa as it would deliver what he called “exactly the propaganda coup that these people want.”

“At issue is the commitment of governments and the leaders of civil society to the principles of human rights.” said Peter Kellner, Chairman of the cultural and educational charity, the Royal Commonwealth Society. He also said that the Commonwealth risked becoming irrelevant if the meeting in Colombo goes ahead. Mr. Kellner also drew attention to the strong criticism of Sri Lanka's human rights record voiced by the United Nations, the European Union, Amnesty International and Human Rights Watch.

Interviewed by the Australian Broadcasting Corporation on 26 April 2013, former Australian Prime Minister, Malcolm Fraser, said that Australia should follow Canada's lead and boycott this year's meeting in Sri Lanka, following credible reports of the torture of Tamil civilians and government-sanctioned abuse of journalists, judges and opposition politicians. "No, we shouldn't [attend]." Mr Fraser said. "We should have been arguing at the Commonwealth conference in Perth that Sri Lanka was an inappropriate place to have the conference. ... From all the reports that we're getting, there is [sic] still continuing human rights violations in Sri Lanka."

This was not, however, the official view of Australia. On 27 April 2013 Foreign Minister Carr said that he will not boycott the Commonwealth Heads of Government Meeting in Sri Lanka over allegations of human rights violations.

Senator Carr said that he had seen no evidence of abuse. "Any suggestion of a boycott would be counter-productive. It would simply isolate the country and render it defiant of international opinion." he told *Lateline*.

"Our challenge is to keep the pressure on to see there are further improvements, especially directed at reconciliation in the north." ... "People ... in the north, they've told me they have seen former Tamil Tigers - that is fighters using terrorist means - are now being rehabilitated, being employed, gainfully employed, being reintegrated into that community."

The Australian Foreign Minister had obviously taken his brief from Dr. Chris Nonis, Sri Lanka's High Commissioner to London who also had been approached by *Channel 4 News* at the Royal Commonwealth Society banquet. He said that he thought it was entirely appropriate that Sri Lanka should host C.H.O.G.M., describing Sri Lanka as a democracy which abided by Commonwealth values.

Challenged on this, Dr. Nonis said: "It is only you who disagree with us ... The tragedy for you [the interviewing journalist], is that you are so out of touch with the reality of contemporary Sri Lanka. I invite you to come. We'd be delighted to have you."

On 30 April 2013 Amnesty International published 'Sri Lanka's assault on dissent'.

The report exposed the Sri Lankan government's violent repression of dissent and how it was intensifying its crackdown on critics through threats, harassment, imprisonment and violent attacks.

"Sri Lankan officials and state-owned media employ the term 'traitor' with alarming frequency against detractors." the report said, "often threatening death or injury to the person accused." It said that there have been no prosecutions of suspected perpetrators of these threats and attacks - which it alleged include arrest, repeated interrogations and enforced disappearance.

The report went on to list groups of those whom it says have been verbally or physically abused or intimidated. They include human rights advocates, women's and workers' rights advocates, student leaders, university lecturers, clergy, trades unionists, party activists, judges, lawyers and journalists.

The document revealed how the government led by President Rajapaksa was promoting an official attitude which equates criticism with 'treason' in a bid to tighten its grip on power.

Journalists, the judiciary, human rights activists and opposition politicians are among those who have been targeted in a disturbing pattern of government-sanctioned abuse, often involving the security forces or their proxies.

"Violent repression of dissent and the consolidation of political power go hand in hand in Sri Lanka." said Polly Truscott, Amnesty International's Deputy Asia Pacific Director. "Over the past few years we have seen space for criticism decrease. There is a real climate of fear in Sri Lanka, with those brave enough to speak out against the government often having to suffer badly for it."

The report detailed dozens of such cases, both before and after 2009.

The judiciary had been a key target of repression, with the government undermining its independence by making threats against judges who rule in favour of victims of human rights violations. Tension culminated in January 2013 when Chief Justice Shirani Bandaranayake was impeached on charges of misconduct, despite a Supreme Court ruling that the impeachment procedure was unconstitutional.

While much of Sri Lankan media is firmly in the hands of the government, the authorities have targeted outlets which remain independent and criticise official policies, or the government's conduct during the armed conflict.

Journalists continue to suffer intimidation, threats and attacks for reports which are critical of the government. At least 15 have been killed since 2006 and many others have been forced to flee the country. In a recent example, Faraz Shauketaly, a journalist with the *Sunday Leader* was left badly injured after unknown gunmen shot him in the neck in February 2013. Older high-profile cases, such as the 2009 killing of former *Sunday Leader* editor Lasantha Wickramatunge, remain unresolved.

Websites with articles critical of the government face frequent cyber attacks, while their offices have been raided by police or burned down by unknown arsonists. The government has also used amendments to legislation - such as providing for the imposition of exorbitant 'registration' fees - - to shut down critical online outlets.

"The government's blatant attempts to restrict and silence the independent media fly in the face of the press freedom, which is supposed to be guaranteed by both domestic and international law." said Truscott.

Much of the government's crackdown is aimed at silencing criticism of its conduct during the armed conflict, in particular during its final months when many thousands of civilians died at the hands of the L.T.T.E. and the army.

"Before November, Commonwealth governments must pressure the Sri Lankan government to address the alarming human rights situation in the country." said Truscott. ... "The CHOGM meeting must not be allowed to go ahead in Colombo unless the government has demonstrated beforehand that it has stopped systematic violations of human rights. All attacks on individuals must be promptly, impartially and effectively investigated and those responsible held to account."

In addition to these ongoing violations, the Sri Lankan government has failed - despite repeated promises to do so - effectively to investigate allegations of crimes under international law committed by the L.T.T.E. and the army during the armed conflict.

“It is abundantly clear that Colombo is unwilling and unable to investigate the credible allegations of crimes under international law, including war crimes, during the conflict. What is needed is an independent, impartial and internationally led investigation.” said Truscott.

Countries which on their past record might have been expected to share the Harper government’s disgust such as Australia, Britain and New Zealand have shown no enthusiasm to follow Canada’s lead.

Australian Prime Minister Julia Gillard and New Zealand’s John Key said isolating Sri Lanka would be counter-productive, and they will attend.

British Prime Minister David Cameron had remained silent on the topic, although he was facing mounting demands that he join Harper in boycotting the summit.

The boycott campaign in Britain had been turning up the volume since the publication of the new report on human rights in Sri Lanka by Amnesty International.

Not covered in the Amnesty report is an ongoing campaign of violence against Muslims by a group of militant Buddhists called the Buddhist Power Force, which is supported by the president’s brother, Defence Minister Gotabaya Rajapaksa. Muslims make up nearly 10 per cent of Sri Lanka’s population of 20 million. Some are the descendants of Arab traders who settled in Sri Lanka, but many others are Tamils. In recent months, several Muslims had been killed and many injured in the attacks by the militant Buddhists.

The call to cancel the meeting in Colombo was echoed by Ms. Yasmin Sooka, Executive Director of the Foundation for Human Rights, who had investigated allegations of human rights abuses in Sri Lanka on behalf of the U.N. Secretary General Ban Ki-moon.

“Sri Lanka is quite frankly descending into a state where the rule of law no longer applies.” she said.

An irony is that the Queen, the head of the Commonwealth, in March had signed the new Charter of the Commonwealth which draws together and expands the organisation’s previous resolutions setting out democracy, equality, respect for human rights and the rule of law as core tenets.

On several occasions, countries have been suspended from Commonwealth membership or thrown out of the organisation for violations of these principles. Pakistan and Fiji have been

expelled twice, and Nigeria once. In all those cases, the action followed military coups, and in the case of Nigeria, the execution of political dissidents.

Zimbabwe had been suspended once after President Mugabe's regime ran a blatantly fraudulent election. Mugabe had then withdrawn Zimbabwe from the Commonwealth.

The situation in Sri Lanka mirrors several of those past examples when countries were suspended or expelled from Commonwealth membership. Yet not only is Sri Lanka not being censured, it is being honoured as the host of the meeting. Such an absurdity does not bode well for the Commonwealth's usefulness or longevity.

Geoffrey Robertson Q.C. was one of a growing number calling for the leaders of Commonwealth countries to boycott the C.H.O.G.M. meeting planned for Colombo Sri Lanka.

He had conducted a review of the process which led to the impeachment and sacking of the country's chief justice; Robertson found Sri Lanka's legal system wanting. On 4 May 2013, during the course of an interview on human rights in Sri Lanka with a journalist of the Australian Broadcasting Corporation, he said: "Bob Carr wouldn't know a human right if he fell over it."

\* \* \*

On 7 May 2013 the official announcement came from Buckingham Palace: the Queen will not attend the Commonwealth summit. The ostensible reason was that "the palace [had] review[ed] her long-haul travel." The 'reason' for the decision is that Buckingham Palace is reviewing the number of long-haul flights the Queen takes, a royal source said ! Don't you know ?! Still, the source, who declined to be named in keeping with royal protocol, said that the decision was not made because of medical advice.

The Queen had been present at every Commonwealth summit in the last 40 years - a sign of the importance she places on her role at the head of the Commonwealth.

For such good friends as Elizabeth and Mahinda not to renew the cordial exchange at the time of the Diamond Jubilee would have been a sad occurrence.



Still, Britain was facing pressure to boycott C.H.O.G.M. altogether, because it would be hosted by the government of Sri Lanka, which is accused of war crimes. But 'the Palace' made the point: "It is nothing to do with the political situation in Sri Lanka."

Human rights groups on 4 May 2013 had criticised David Cameron's decision to attend the summit. Canada's government has said it will boycott the meeting, with the country's foreign minister saying that allowing Sri Lanka to host it would be "accommodating evil."

Buckingham Palace said the Queen's decision not to attend was not a political one. "It is nothing to do with the political situation in Sri Lanka," said a spokesman. "The key point here is that the Queen will be represented, although she is not there in person, by the Prince of Wales."

There was nothing new. The official lie was fear of ... gastroenteritis. The precedent? Well, the Queen had been forced to cancel her appearance at the Commonwealth Day service in Westminster Abbey in March after a bout of gastroenteritis.

Commonwealth Secretary-General Kamallesh Sharma promptly said in a statement on 7 May 2013 that the group of nations "completely understands and respects" the Queen's decision not to attend.

He paid the customary oily tribute to "the continuing dedication and deep sense of duty" the Queen brings to her role as head of the Commonwealth.

He also welcomed her decision to send Charles to Colombo, in her stead, saying there had been "close links" between the Prince and the Commonwealth over many years.

But a Downing Street spokesman told *Channel 4 News* that Mr. Cameron would be delivering "a very tough message to the Sri Lankan government that it needs to make concrete progress on human rights, reconciliation and political settlement." He said that the Prime Minister and Foreign Secretary had jointly decided that this could be better achieved by Mr. Cameron's attending the summit than by boycotting it.

In the six weeks since the Queen signed the new Commonwealth Charter promoting the organisation's 'shared values' - which include democracy, human rights, good governance

and freedom of expression - there had been many calls to move the venue of the summit from Sri Lanka.

A Downing Street spokesman told *Channel 4 News*: “We are a strong supporter of the Commonwealth and we believe it can continue to be a force for good in the world, promoting values such as freedom, democracy and human rights. Our position is that we can use the visit to see the situation in Sri Lanka. When world leaders go, the world’s media goes too and it shines a light on the country and what is happening there.”

The then Immigration Minister Brendan O’Connor returned on 5 May 2013 from a brief visit to Colombo, where he discussed the challenges surrounding refugees and ‘people smuggling’.

Touted as part of the ‘Gillard government’s continuing commitment to deepening Australia’s relationship with Sri Lanka’, the visit aimed to progress the ‘Bali Process’ [an international framework agreement entered into in February 2002, co-chaired by Australia and Indonesia, and ‘enhanced’ by ‘Labor’] for the purpose of tackling difficult ‘migration management’ issues. Migration management is *bureaucratese* for “what to do about asylum seekers.”

In November in Colombo Australia will be the one handing over the chair to Sri Lanka, after the Gillard - and then Rudd and now the Abbott - government completes its term in the Commonwealth leadership role. But there is something not quite admirable in the Australia government’s willingness to allow a difficult domestic political issue to prevent it from taking a more principled stand internationally. Even before the release of Amnesty International’s report, Canada was filling the leadership vacuum in the Commonwealth created by Australia’s silence and connivance.

And the reason Australia will not get tougher with Sri Lanka over human rights violations is because the government could hardly justify sending asylum seekers back there.

Instead, former Foreign Minister Carr had taken to defending Sri Lanka and even belittling Canada’s bold stand. The Coalition is in the same position, with its members while shadow ministers expressing their faith in the Sri Lankan government and publicly pretending that things have markedly improved.

It is simple: both the then ‘Labor’ Australian government and the then Opposition had made political decisions to send asylum seekers back to Sri Lanka. To criticise that country’s human rights record would only be highlighting the severe flaws in both sides ‘policies’.

Since August 2012 and as at May 2013, according to then Minister O’Connor, 1071 Sri Lankan asylum seekers had been returned - 862 of them involuntarily. Those were the types of figures about which both major parties in Australia wanted to talk during the campaign for September 2013 election. Those two parties were not interested in talking about political dissenters and ordinary civilians in Sri Lanka being subjected to abuse and how many asylum seekers being returned from Australia might add to those numbers. Nor were they concerned that the sponsor of the abuse would soon be chairing the Commonwealth meeting.

In February, Britain’s High Court ordered the United Kingdom Border Agency to stop the removal of Tamils who had been refused asylum until an assessment was completed about the risk they would face if returned to Sri Lanka.

The U.K. court got it; Canada’s Prime Minister Stephen Harper got it; Amnesty International and the Australian Greens got it. But the major political parties in Australia would not allow themselves to accept that human rights abuse in Sri Lanka should significantly influence asylum seeker ‘policy’ in Australia.

On 10 June 2013 it was reported on the *7.30* programme of the Australian Broadcasting Corporation that an Immigration Department insider had claimed that the Australian government was sending Sri Lankan asylum seekers home to gaol and torture under its method of ‘enhanced screening’.

The anchor-lady began: “There are renewed calls for a bipartisan solution to asylum seeker arrivals after yet another tragedy at sea. Rescue authorities today called off a search for more than 50 people drowned in the latest sinking off Christmas Island. With boat arrivals in record numbers and no sign of a solution, the government recently adopted *a new accelerated screening process* to justify sending some asylum applicants home on arrival. [Emphasis added] More than a thousand Sri Lankans have been repatriated under the so-called enhanced screening regime. But now it’s claimed that some of them have been sent back only to face imprisonment and brutal punishment.”

A reporter was introduced. “It was a sight that caught the Australian Government by surprise. A boat carrying 66 Sri Lankan asylum seekers sneaking into Geraldton Harbour in Western Australia.” - a rare successful voyage all the way to the mainland ?

I think everyone is charged on the way back because leaving the country without a valid visa is illegal in Sri Lanka.”

The reporter: “Some in the Tamil community say more than two dozen are now incarcerated.” ... “The treatment of Tamil inmates by Sri Lankan security forces is very much under question. This man, now also in community detention, says he was tortured and raped in Negombo in 2010, before he fled to Australia. He says it's still unsafe for Tamils who are sent back.”

An anonymous man: “Still people are facing torture, you know, rape, torture and many, many things, you know. Um, that's why the Tamil people leaving from Sri Lanka.”

David Manne [a lawyer and migration agent who is the executive director of the Refugee and Immigration Legal Centre who has worked for some twenty years assisting refugees and asylum seekers]: “I mean, at the end of the day, this is a very serious matter where many people appear to be being denied due process and are at risk not only of violation of their basic rights, but of serious miscarriages of justice where people could in fact be denied protection here and sent back to the prospect of real dangers such as torture or death.”

The reporter: “The Department rejects any suggestion that enhanced screening denies asylum seekers the opportunity for protection and the Government doesn't believe that Tamils are still at risk in Sri Lanka.”

A brief segment was introduced. It was from Bob Carr, the former Foreign Minister saying: “Since 2010, there has been no evidence of returnees being discriminated against, or arrested, let alone tortured.”

The whistleblower identified himself as Greg Lake: “I looked back on my experience or I was beginning to look back on some of the experiences I'd had and wondering whether or not I was part of the next horrific Australian story that we'll reflect on in 20 or 30 years' time and that we might have another prime ministerial apology on this kind of thing.”

Now, what is this new method of ‘enhanced screening’, this ‘new accelerated screening process’ ?

‘Enhanced screening’ is the latest deterrent aimed at Sri Lankan asylum seekers - as Bob Carr ignores the Rajapaksa government's human rights abuses, wrote Greens Senator Lee Rhiannon.

‘Enhanced screening’ is the latest example of ‘Labor’s attempt to downplay the crimes of the Rajapaksa regime to suit its domestic political agenda. It is also another disgraceful act by the Australian government in its treatment of asylum seekers.

Senator Rhiannon was in contact with some of the asylum seekers who have gone through the ‘enhanced screening process’. ... Some on Christmas Island had made contact with lawyers in Australia. *The Guardian* Australia had reported this too. This means that under Section 256 of the *Migration Act* the Department of Immigration and Citizenship is required to afford all reasonable facilities for asylum seekers to obtain legal advice.

However, many of the allegations made by Sri Lankan asylum seekers appeared to put the Department’s practice at odds with the *Migration Act*. If asylum seekers are being denied access to legal advice, for example, not being given the documents sent to them by their lawyers, then the officials making these decisions are in breach of the *Migration Act*.

*The Australian* reported on 19 June 2013 that a confidential Department brief said that “as at January 31, 1,403 enhanced screening interviews had been done and 67 per cent (947) had been screened out - that is, barred from lodging refugee claims.”

The U.N.H.C.R.’s Richard Towle called the enhanced screening arrangements “unfair and unreliable” and said that it forms part of an “ever-widening suite of deterrent measures.”

Reports indicated that ‘enhanced screening’ was being used only for those arriving from Sri Lanka. Instead of putting pressure on Sri Lanka to stop its terror tactics, human rights violations, intimidation and extra judicial killings, Australia was flaunting a friendship of cooperation and collaboration.

In February 2013 then Foreign Minister Senator Carr had told Senator Rhiannon at a meeting of the Committee on Senate Estimates that “since 2010 there has been no evidence of returnees being discriminated against or arrested, let alone tortured.”

Since August 2012, 1,035 asylum seekers from Sri Lanka including over 200 Tamils have been sent back involuntarily.

In February 2012 Human Rights Watch had released a report detailing the experiences of some Tamil asylum seekers subjected to arbitrary arrest and torture upon their return to Sri Lanka from Britain. The torture included being beaten with batons, burned with cigarettes, upside down hangings and rape. One Tamil woman said she was arrested at Colombo airport by Sri Lankan officials on her return in April 2010 and was raped by several men many times while in detention. Human Rights Watch had medical evidence supporting these claims.

In February 2013 Human Rights Watch had produced another report titled ‘We will teach you a lesson: Sexual violence against Tamils by Sri Lankan Security Forces.’

The report detailed 75 cases of alleged rape and sexual abuse of Tamil detainees which occurred from 2006 to 2012. Men and women reported being raped multiple times, often by several people, with army, police and pro-government paramilitary personnel frequently participating.

In April 2013 the A.B.C. 7.30 programme ran a story about a Tamil man living in Melbourne who was abducted, raped and tortured by Sri Lankan army intelligence officers when he returned to Sri Lanka for a visit.

Senator Rhiannon wrote that her office “had been in contact with a Tamil who was imprisoned with other Tamils in Sri Lanka after the war ended in 2009. They were all gang-raped over a number of months. The Department of Immigration was aware of this case.

How much more evidence does Carr need ?”

The Australian Federal Police had spent approximately AU\$ 540,000 to train the Sri Lankan police in the 2012-2013 financial year. The training courses included management of investigations, development for individual police officer programmes, criminal intelligence

analyst training, money laundering investigations training, and 'train the trainer' programmes.

When Senator Rhiannon asked the Australian Federal Police in Senate Estimates if they were aware of the allegation made against the Sri Lankan police of widespread use of torture and rape in detention, she was told "of course the AFP is conscious of those."

Senator Rhiannon concluded: "Considering Australia is funding Sri Lankan police training, the public would expect our government to hold the Rajapaksa regime to account for allegations of deaths in custody, torture and rape by the Sri Lankan police. Being 'conscious' is definitely not good enough.

My request for examples of where the A.F.P. has interacted with their counterparts in Sri Lanka to recommend changes to address these ongoing allegations about torture and rape were taken as questions on notice. I may not receive these answers till February 2014."

Actually she may never receive the answer. Senator Carr is no longer the foreign minister and the Abbott government is in a Jesuitic mode.

Senator Rhiannon went on: "Time and again, the Australian government has shown that human rights in Sri Lanka is not a priority. Only stopping Tamils leaving the country is.

There are mechanisms to let Sri Lanka know that we are not willing to turn a blind eye to the Rajapaksa regime's blatant disregard of human rights and justice. One of these is the upcoming Commonwealth Heads of Government Meeting that will be held in Sri Lanka this November after which Sri Lanka will assume chair-in-residence of the Commonwealth for two years.

Australia should follow the example of Canada and say if CHOGM goes ahead in Colombo, without an improvement in the human rights situation there, the Prime Minister will not attend.

Unbelievably, Australia will not only participate in CHOGM, it has promised assistance to the Sri Lankan government to host this event.

Enhanced screening must be stopped. It is a process which fails to ensure Australia is not returning refugees to a place where they are at risk of persecution, torture, cruel inhumane or degrading treatment. Australia has clear international obligations under the Convention Against Torture, the International Covenant on Civil and Political Rights as well as the Refugee Convention. We need to comply with these obligations for anyone who seeks protection in Australia, including Sri Lankans.”

\* \* \*

By 6 May 2013 the Australian Tamil Congress, based in Rossmoyne, Western Australia, updated a petition signed by more than 2,700 persons and entities long before the Commonwealth Ministerial Action Group met on 26 April 2013 in London, and submitted to then Prime Minister Gillard and Foreign Minister Carr prior to the meeting.

The petition said: “Although Canada has strengthened its boycott position, Australia’s Foreign Minister, Bob Carr remains under the misconception ‘there is no evidence of current human rights abuses in Sri Lanka’.

Unbelievably, the fact that the Sri Lankan Rajapaska regime blatantly undermines numerous Commonwealth Values and Principles, has been glossed over by our Government and the Commonwealth Community.

Human Rights abuses in Sri Lanka are inextricably linked to Tamils comprising the largest group of asylum seekers arriving on our shores, and yet the Australian Government returns them without due processing.

We continue to call on the Australian Government to show responsibility and leadership on Sri Lanka and Human Rights.

They can do this by following the Canadian Prime Minister’s example and announcing that if the summit goes ahead in Sri Lanka, without an improvement in the human rights situation there, then they will not attend.

This is the most effective way we can put the pressure on the Commonwealth to act.



Desmond Tutu, Mary Robinson, Canadian Prime Minister Stephen Harper, Geoffrey Robertson QC, the Royal Commonwealth society President Peter Kellner, Bloomberg, *The Age*, *the Washington Post*, *The Guardian*, prominent Caribbean diplomat Sir Ronald Saunders, David Milliband, Malcolm Rifkind, Ricken Patel (the founder of Avaaz), Amnesty International, the International Commission of Jurists, Forum Asia, the Asian Legal Resource Centre, *Civicus*, the Commonwealth Journalists Association, the East and Horn of Africa Human Rights Defenders Project, the Human Rights Law Centre (Australia), Human Rights Watch, the International Crisis Group, the International Federation for Human Rights, Minority Rights Group International, the Commonwealth Human Rights Initiative and a number of Sri Lankan non-government organisations have all expressed grave concerns about the human rights abuses in Sri Lanka, and the summit being held there.

But it is your voice the politicians need to hear. We invite you to participate in the momentum of this campaign and lend your support by signing this petition.”

The petition had been endorsed by: Professor Raj Rajeswaran, Chairman, Australian Tamil Congress, the Hon. Malcolm Fraser, former Australian Prime Minister, The Australian Greens, Senator Lee Rhiannon, The Australian Greens, David Shoebridge, Member of the New South Wales Legislative Council, The Greens, Colleen Hartland, Member of the Victorian Legislative Council, The Greens, John Kaye, Member of the N.S.W. Legislative Council, The Greens, Jamie Parker, Member for Balmain, The Greens, Bruce Haigh, former Australian Deputy High Commissioner in Sri Lanka, Professor Jake Lynch, Director, Centre for Peace and Conflict Studies, University of Sydney, Professor Damien Kingsbury, Director, Centre for Citizenship, Development and Human Rights Faculty of Arts and Education, Deakin University, Emeritus Professor Stuart Rees AM, Director, Sydney Peace Foundation, University of Sydney, Antony Loewenstein, independent journalist and author, Professor Wendy Bacon, academic and investigative journalist, Stephen Blanks, Secretary, N.S.W. Council for Civil Liberties, Peter Murphy, Coordinator, The Search Foundation, Julian Burnside AO QC, Australian barrister, human rights and refugee advocate, author, Sue Bolton, Socialist Alliance councillor, Moreland City Council, Melbourne, Refugee Rights Action Network (Western Australia), Labor for Refugees, and Socialist Alliance.

The petition urged specifically the Hon. Julia Gillard, then Prime Minister to reconsider Australia's decision to attend C.H.O.G.M 2013 in Sri Lanka. "It is due to be held in a country where a brutal tyrannical regime continues to commit acts of murder, torture, and rape - while ignoring the core values of the Commonwealth. People are looking to you."

During the campaign which led to the 7 September 2013 federal election, both major Australian parties had competed on how intransigently cruel one should be in the attitude to asylum seekers.

The Liberal National Coalition had relentlessly relied on the slogan "Stop the boats" as an expression of hysteria about all immigration matters in Australia.

"For a nation largely comprised of 'boat people', the attempt by asylum seekers had generated the most debate. ... Is this due to what multiculturalism academic Ghassan Hage calls the "sensitivity of thieves", linking the invasion and theft of Australian land from its traditional owners by white settlers 200 years ago with current attitudes to asylum seekers ? Or do attitudes to asylum reflect a genuine concern for Australia as a sovereign nation" ? he wondered.

In a contribution to the debate two other academics proceeded in tracing an excursus of the White Australia policy from the beginning of the federation in 1901 to the 1990s, and continued: "Since the 1990s, asylum policy could be characterised as a race to the bottom on both sides of politics. In 1992, Paul Keating's Labor government introduced mandatory detention for all people arriving without a valid visa. People who entered Australia on a valid visa and then claimed asylum were, and still are, not subject to mandatory detention. They remain in the community for the duration of their asylum claim.

One of the lower points of asylum policy was the 2001 *Tampa* Affair. Having already introduced temporary protection visas for onshore asylum seekers in 1999 and with an election on the horizon, Prime Minister John Howard used the arrival of a boatload of asylum seekers seeking entry to Australia as a moment to initiate some of the harshest policy responses to asylum seekers.

These measures included refusing the boat in question to enter Australia's territorial waters and excising Christmas Island from the migration zone. There was widespread public support

for these measures, and attitudes to asylum harshened in the aftermath of Howard's election victory and the arrival of more boats."

Under the first Rudd government there were promising signs of a shift in attitudes to asylum. The temporary protection visas system was dismantled and some detained asylum seekers were released into the community. The number of boats carrying asylum seekers into Australian waters kept increasing, however. This served the Coalition opposition well as a convenient reminder of the government's failure in tackling an issue deemed to be out of control.

Australia has a long history of boat arrivals - so why is a hard line being taken on asylum seekers today? again asked the two academics.

"In 2011, the proposed 'Malaysian solution' by Prime Minister Julia Gillard signalled a major setback. However, the suggested exchange of 800 asylum seekers to Malaysia for 4000 refugees and the building of detention centres in Malaysia was prevented by the High Court's ruling on insufficient human rights protection under Malaysian law and the invalidity of the ministerially-agreed bargain.

Lacking options for legal amendments due to its minority in the Senate, the Gillard government's next step was the appointment of the Houston Expert Panel on Asylum Seekers. The panel's recommendation to re-introduce offshore processing on Nauru and re-establish a regional processing centre on Manus Island was met with disbelief by many. The strategically named "no advantage" rule, aimed at denying boat arrivals any advantage in the processing of their claims, revealed the government's desperate attempt to signal they were still in charge of Australia's borders.

The language of '[law] and order' in combination with insinuations of foul play through "queue jumping" has long dominated public discourse on asylum seekers, not only in Australia. The "bogus asylum seeker" has become a widely used term that neatly separates undeserving and deserving refugees.

The most recent low point in the sad affair of Australian asylum policy is the excision of the Australian mainland and Christmas Island from the migration zone. This allows the removal of those deemed as unlawful arrivals for detention and processing offshore. Former

immigration minister Chris Bowen had referred to this legislation as a “stain on our national character” when it was put to parliament under the Howard government.”

But the important question remains: does anyone really believe that these changes will stop people’s desperate attempts to reach a safer place at the end of a potentially deadly journey ?

\* \* \*

By the end of August 2013 the United Nations Human Rights High Commissioner, Dr. Navi Pillay, was forced to warn that Sri Lanka was becoming “increasingly authoritarian” with rights activists apparently suffering growing harassment from security agencies.

Dr. Pillay said on 31 August 2013 that it was “utterly unacceptable” that rights activists who spoke with her during her fact finding mission had subsequently faced harassment by the police and the military.

“I’m deeply concerned that Sri Lanka, despite the opportunity provided by the end of the war to construct a new vibrant, all-embracing state, is showing signs of heading in an increasingly authoritarian direction.” she said.

“It is important everyone realise that although the fighting is over, the suffering is not.” Dr. Pillay told a news conference at the end of a controversial fact-finding mission to assess Sri Lanka’s progress after the 26-year war between the government and separatist Tamils. She acknowledged that reconstruction and redevelopment are important achievements in the former war zones. “However, physical reconstruction alone will not bring reconciliation, dignity, or lasting peace.” Dr. Pillay said. “Clearly, a more holistic approach is needed to provide truth, justice and reparations of people's suffering during the war.”

She also urged the Rajapaksa government to de-militarise the former war zones in the country’s east and north.

Dr. Pillay publicly called for a war crimes investigation into what the United Nations calls ‘credible allegations’ that up to 40,000 civilians were killed during the final stages of the civil war.

Dr. Pillay had begun her visit on the preceding weekend, after the Rajapaksa regime appeared to drop its public hostility towards her and the U.N. Human Rights body, which has adopted two resolutions against Sri Lanka in as many years. She visited the former northern war zones in Jaffna, Kilinochchi, Mullaitivu and the eastern district of Trincomalee, and met government leaders in Colombo.

President Rajapaksa told Dr. Pillay on 30 August 2013 that his people believed the United Nations was a biased organisation, and a report she was due to release the following month had already prejudged the country. Pro-government activists accused the international community of drumming up false allegations of war crimes during the final months of a separatist conflict.

Under the Rajapaksa gang, Sri Lanka has become a place of cronyism, conflicts and crimes.

Power is concentrated around President Rajapaksa and apportioned to his brothers, sons, other relations and even an astrologer-turned-banker: Sumanadasa Abeygunawardena.

‘World renowned’ Abeygunawardena had no formal experience in banking before his ‘close family friend’ Mahinda Rajapaksa - who is also Finance Minister - tapped him for the National Savings Bank board in 2007.

In 2012 one of Sri Lanka’s most gifted journalists Ms. Frederica Jansz, editor of the *Sunday Leader*, then one of the last independent newspapers on the island, received a tip that a SriLanka Airlines flight to Colombo from Zurich had been changed from an Airbus A340 to a smaller A330 - depriving 54 paying passengers - so that the SriLanka Airlines pilot - the boyfriend of Gotabaya Rajapaksa’s niece could personally fly a Swiss puppy home for her uncle.

Ms. Jansz telephoned Gotabaya on speaker phone and recorded the conversation. Gotabaya confirmed the story as if such things were commonplace, but when she pressed him he flew into a rage, threatening Jansz and telling her she would be killed if she published the story. She did publish the following Sunday.

A month later, a Rajapaksa crony Asanga Seneviratne unexpectedly bought the *Sunday Leader*, and promptly sacked her as editor. Ms. Jansz then received a succession of death

threats and, fearful for her life, applied for sanctuary in Australia. She was unsuccessful, despite strong evidence in favour of her case.

In 2009, Lasantha Wickrematunge, Jansz's predecessor as editor of *The Leader*, had been murdered - gunned down on a busy Colombo street. Wickrematunge had written in his paper just days earlier that he would be killed by the government.

But none of that history seemed to convince the then Gillard government, anxious to curry favour with the Sri Lankan government over the procession of Tamil asylum seekers making for a new life after a brutal war. The Gillard government denied Ms. Jansz's visa application on the ground that "She did not face persecution." Ms. Jansz went instead to the United States embassy and today lives in exile with her children in a town outside Tacoma, in the State of Washington.

Holding Australia's domestic "stop the boats" politics to ransom, the Sri Lankan military is accused of grabbing land in traditional Tamil areas, ordering soldiers to marry Tamil women, even fostering the 'people smuggling' trade.

The victims of Sri Lanka's lethal ethnic politics, Tamils have endured decades of deprivations under the Tigers, a calamitous civil war, the devastating 2004 *tsunami*, the horrendous bombardments of 2008-2009 and now the post-war persecution by a menacing Sinhalese military. It is hardly surprising that Tamils have a fatalistic saying: "The dead are lucky."

Unsurprising too, is that the promise of safer harbours abroad beckons these people. Of course now, if an asylum seeker somehow managed to gather the minimum US\$ 5,000 it costs to be smuggled on a rickety Australia-bound boat, her/his prospect would be for a life in Papua New Guinea, if s/he did not drown *en route*.

Asylum seekers once looked like Mr. John Nguyen, the Australian Liberal Party's election candidate for the middle-class Melbourne seat of Chisholm. In 1979 he and his grandparents fled persecution in Vietnam - by boat, in the wake of war. Nguyen's boat landed him in Malaysia, before he was accepted by Australia. Today, a generation and another Asian war on, Nguyen is hailed in Australia as a refugee success story, and has been re-born as an Australian politician - who, during the weeks before the 7 September 2013 election, was

campaigning on his party's hard-line ticket to "stop the boats" of refugees coming from places such as northern Sri Lanka.

The number of Sri Lankans getting on unauthorised boats has jumped about 25-fold since the war ended. But long before the 2013 Australian election, a poll which was geared inevitably to be fought on the asylum-seeker issue, the Australian government has taken a tougher stance. Starting in July 2013, during the dying weeks of the second Rudd government, a new 'no visa' campaign spread across Sri Lankan print, radio and television, to discourage asylum-seeker departures, and to break the smugglers.

The Australian government had over forty huge billboards erected at strategic points in the north of Sri Lanka. It has splurged on large billboards in Jaffna, warning Sri Lankans against seeking asylum by boat, but the steady procession of boats leaving from isolated Sri Lanka beaches suggests that it was money poorly spent.

In a land of desperate people, people smuggling is a lucrative trade, and there's no certainty that what was Rudd's Papua and New Guinea solution will much change things. As Dr. Paikiasothy Saravanamuttu of the Colombo-based think tank Centre for Policy Alternatives said: "It's not really about where people are going, it's what they are wanting to leave." ... "You are talking about people, call them political refugees, call them economic refugees, the bottom line is they have no faith in what the hell is going on where they are, and they obviously feel the grass is greener on the other side." he said. ... "It's an indictment on the government policy that economic development is [touted as] the panacea for reconciliation and [it is claimed] that everything is more or less hunky dory in the north, and in particular that's not the case."

TBWA-TAL, the Colombo advertising agency which designed the anti-smuggler billboards for Australia's Customs and Border Protection Service was questioned about their effectiveness. The Australian government had been warned off the agency speaking to media. The agency principal said that she had to refer any questions to the Australian's Customs. And when that was attempted, the response was in convoluted *bureaucratese*: "The Australian Government is committed to providing people in Sri Lanka with up to date information on Australian Government policy in this area."

Perhaps Australian dollars would be better spent ‘providing up to date information’ to military brass at Trincomallee, where the Sri Lankan Navy has a big base and training academy, and at military headquarters in Colombo, which is ruled by one of Rajapaksa’s brothers, Gotabaya.

Gotabaya is the regime’s much-feared enforcer. He has considerable image problems, including the widespread perception that the military is corrupt, and possibly that his relatives are as well. A long stretch of coastline has long been rife with rumours of official involvement in people smuggling, or of the Navy sailing the other way as another refugee boat hits the high seas.

An investigative journalist for *The Global Mail* would confirm that “while we were in the north-east, we heard myriad stories of precarious passages to Indonesia and beyond, of 200 people cramming into a fishing boat built for 20, of berths costing as much as US\$ 10,000 per passenger - such money being paid to shady agents with government and military connections.”

The Sri Lankan government was very much aware of what the pressing election issues were in Australia.

On 17 August 2013 Sri Lankan media reported that four Sri Lankan Navy signalmen had been arrested on suspicion of organising a boat voyage for a group of 111 asylum seekers, 46 men, 20 women and 45 children. Some 108 of those caught on board a fishing vessel said to be headed for Australia were Tamils from civil-war-affected areas. This followed repeated emphatic denials by the Sri Lankan Navy of the complicity of its personnel, if not its officers, in people smuggling; its defence in the face of such accusation previously has been ‘lack of proof’.

A spokesperson for the Sri Lankan Centre for Policy Alternatives said that the waters of the north-east are now so tightly controlled, that it is almost inconceivable that an unauthorised boat could leave Sri Lanka without being detected. “You cannot get out of territorial waters without the Navy letting you out.” he said. “It just cannot be done.”

Indeed, there are suspicions that the boat convoys are operated like a spigot, to be turned on and off by officials in the Sri Lankan government at their political whim - the valve is



opened whenever tiny Sri Lanka wants to punch above its international weight, and send a back-off message to Australia, should it dare criticise its 'policy'.

This might explain why successive Australian administrations - unlike their 'western' counterparts in Washington, at the United Nations, in Ottawa and across Europe - have been reluctant to point fingers at the Rajapaksas' handling of the war and their half-hearted reconciliation with the country's Tamil community.

In Canada, Prime Minister Stephen Harper has, by way of protest, ruled out attending the 2013 C.H.O.G.M. in November, while Britain's deputy Prime Minister Nick Clegg told the House of Commons there will be "consequences" for Sri Lanka if "despicable human rights violations" are not addressed by the Rajapaksa regime.

But, as a Tamil leader in Trincomallee put it: "Our people aren't getting on a boat for Canada or the U.K., they are heading for Australia.

"Australia has behaved in a peculiar fashion." said the Centre for Policy Alternatives spokesperson in August 2013. "The government here is very much aware of what the pressing election issues are in Australia." A smooth C.H.O.G.M. is essential to the Rajapaksas, he adds, because then "They can show they are not international pariahs and that the international community endorses them." Australia seems anxious to help, but is aware of the risks involved. One diplomatic insider in Colombo explained how Australia's then Foreign Minister Carr, during his visit to Sri Lanka last in December 2012, was "told in no uncertain terms what havoc the Rajapaksas could wreak on Australia if they wanted to." ... "When Carr came here, I think he was told directly or indirectly that the numbers could increase."

After Carr's visit, a succession of Australian officials, such as then shadow foreign minister Julie Bishop, then shadow immigration minister Scott Morrison and then shadow minister for border protection Michael Keenan, have made sanitised tours of Sri Lanka, and have come away in unanimous agreement. "Since the end of the war things have been vastly improving." was the common impression.

After the election of 2013 the 'shadows' have become minister in the Abbott government !

But the persecution continues - albeit in a much more subtle way.

“The government’s plan post-war is to make sure the Tamils become a negligible minority.” Which is not how resident Tamils, such as Jaffna lawyer and civil-society activist Kumaravadivel Guruparan of the Forum for Social Empowerment, see it. “Structural genocide,” said Guruparan, is the Sinhalese-led government’s “very well-calculated generational plan ... to de-Tamilise the community.” He believes that “The government’s plan post-war is to make sure the Tamils become a negligible minority, so that the things that identify Tamils as a collective are eliminated.” Guruparan said that Tamils are constantly intimidated and harassed by authorities. He cited military land grabs and said that in the four years since the war ended the general social conditions of Tamils have become “definitely worse than [in] the 1970s” - the tumultuous period which gave rise to the Tigers and to Tamil militancy. “None of this was present in the 1970s,” said Guruparan, an Oxford-educated lawyer. “There was never an army presence like this. My parents say they weren’t exposed to the army as much as I have been.”

Tamil activists say that more than 100,000 Tamils have been displaced since the war ended, adding to the estimated 150,000 already displaced by fighting during the 26-year conflict and who still live in refugee shanties around Jaffna. Military bases have sprung up in the area - at least sixty of them.

“There is one army soldier for every 11 people here.” said Guruparan. That’s one of the highest soldier-to-civilian ratios in the world, notes the analyst Dr. Saravanamuttu.

In July 2013 the Sri Lanka government announced that it was shutting 13 army camps around Jaffna and returning the land to its original owners who, it insisted, had been paid rent while the sites were occupied. The army claimed the move had nothing to do with provincial elections which were scheduled for 21 September - the first in 25 years - and which were expected to be swept by the opposition Tamil National Alliance.

Guruparan told *The Global Mail* that Sri Lankan soldiers are being ordered to marry female former members of the separatist Liberation Tigers of Tamil Eelam. He described the case of one woman he has represented, a former civilian administrator in the Tigers’ civil service when the area - which covers about 15 per cent of the island’s landmass - was their *de facto* state, Eelam. The woman’s husband was a ranking commander in the Tiger navy,

the Sea Tigers, and died in battle in 2008. Since the war ended, a year later, she has been constantly harassed by army agents, Guruparan said: “She was told that for her to lead a secure life, she would have to re-marry an army soldier. These are the kind of subtle ways in which Sinhala Buddhists, these extremists, this hegemony, is taking place - what I call the normalisation of abnormalcy.” he said. “This is what the government means by ‘time and space’ and ‘reconciliation’.” He said that such examples are now being used in school seminars in former L.T.T.E.-controlled areas to illustrate what ‘reconciliation’ means.

Talk of such matters does not go over well among the Rajapaksas in Colombo. As an articulate advocate in middle-class Tamil civil-society circles, Guruparan says he has also been harassed, and that his vice-chancellor at the state-funded University of Jaffna was warned by military intelligence about his activism.

“The Tamil people are being told that no-one is going to help you, the international community is not going to come in, this government is not going to change, so you have to learn to live with the army.” Guruparan said.

Against this diffused sense of hopelessness Dr. Pillay of the U.N.H.C.R. was continuing to fight.

On 2 September 2013 the Sri Lankan government accused Dr. Pillay of making “political statements” regarding the country after she ended a week-long fact-finding mission. The reaction came a day after Dr. Pillay, at the end of the visit, said that the Sri Lankan state was becoming more authoritarian.

“The High Commissioner’s observation that Sri Lanka is showing signs of heading in an increasingly authoritarian direction is a political statement on her part.” the government said in a press release on 1 September 2013.

The government said that Dr. Pillay’s statement “clearly transgresses her mandate and the basic norms which should be observed by a discerning international civil servant.” ... “The judgment on the leadership of the country is better left for the people of Sri Lanka to decide, than being caricatured by external entities influenced by vested interests.” the statement said.

Dr. Pillay visited the former Tamil rebel-held areas in northern Sri Lanka, the former northern war zones in Jaffna, Kilinochchi, Mullaitivu and the eastern district of Trincomalee, met civil society groups, politicians and aid workers before meeting President Rajapaksa amongst others.

On 31 August 2013 Dr. Pillay issued an *interim* statement in New York about her findings on the mission to Sri Lanka. As she pointed out in her statement, Rajapaksa propagandists in media, online and in government have described her as a “Tamil Tigress in the U.N.”, claiming that she was being paid by the Tamils to do the now vanquished terrorist group’s bidding. Dr. Pillay is of distant Tamil descent by way of India and recently of South Africa !

Gotabaya Rajapaksa has a history of making death threats. In 2010 he told the B.B.C.’s *Hard Talk* programme that Sri Lanka “will hang” General Sarath Fonseka. This commander had helped win Gotabaya the war against the Tigers and later ran for the presidency against Mahinda, only to lose and be gaoled.

Dr. Pillay was visibly disgusted. “This is not only wildly incorrect.” she said “it is deeply offensive. This type of abuse has reached an extraordinary crescendo during this past week, with at least three government ministers joining in.”

Dr. Pillay’s *interim* report on Sri Lanka is blunt and excoriating. She describes the post-war military grabs of Tamil lands, and the harassment and intimidation of civilians by security forces and government officials - even while she was in the country. She spoke of the uninvestigated ‘white van’ disappearances now commonplace in Sri Lanka, in which the regime’s critics and opponents are snatched off the street and bundled into unregistered vehicles, often never to be seen again. ... “This type of surveillance and harassment appears to be getting worse in Sri Lanka, which is a country where critical voices are quite often attacked or even permanently silenced.” To this she added “Utterly unacceptable at any time, it is particularly extraordinary for such treatment to be meted out during a visit by a U.N. high commissioner for human rights.”

Dr. Pillay writes that she “was extremely moved by the profound trauma I have seen among the relatives of the missing and the dead, and the war survivors, in all the places I have visited, as well as by their resilience. This was particularly evident among those scratching out a living among the ghosts of burned and shelled trees, ruined houses and other debris of

the final battle of the war along the lagoon in Mullaitivu. It is important everyone realises that, although the fighting is over, the suffering is not.”

Dr. Pillay also noted the rise, under Gotabaya Rajapaksa’s patronage, of the Buddhist extremist group Bodu Bala Sena, expressing “concern at the recent surge in incitement of hatred and violence against religious minorities, including attacks on churches and mosques, and the lack of swift action against the perpetrators.

“I was surprised that the Government seemed to downplay this issue, and I hope it will send the strongest possible signal of zero tolerance for such acts and ensure that those responsible (who are easily identifiable on video footage) are punished.” she said.

Dr. Pillay also expressed concern at how deeply Gotabaya’s military is “putting down roots and becoming involved in what should be civilian activities, for instance education, agriculture and even tourism. ... Clearly, the army needs some camps - she said - “but the prevalence and level of involvement of soldiers in the community seem much greater than is needed for strictly military or reconstruction purposes four years after the end of the war.”

Dr. Pillay also challenged Gotabaya Rajapaksa and his military commanders to install a policy of zero tolerance towards sexual harassment and abuse of women and girls by their soldiers.

Gotabaya Rajapaksa chose officially to reply to all such observations with one single word: “Bullshit” !

Dr. Pillay said that she was highly offended by comments in the Sri Lankan media accusing her of bias because of her Indian Tamil ethnicity.

“Some media, ministers, bloggers and various propagandists in Sri Lanka have, for several years now, on the basis of my Indian Tamil heritage, described me as a tool of the L.T.T.E. They have claimed I was in their pay, the ‘Tamil Tigress in the U.N.’ This is not only wildly incorrect, it is deeply offensive.” said Dr. Pillay at the beginning of the press conference on 31 August 2013.

In the same vein, she added, “the LTTE was a murderous organization that committed numerous crimes and destroyed many lives ... those in the diaspora who continue to revere

the memory of the LTTE must recognize that there should be no place for the glorification of such a ruthless organization.”

These comments have not stopped the Sri Lankan media and the blogosphere continuing their attacks on the perceived bias of both the U.N.H.R.C. and its Commissioner for allegedly overstepping her mandate to attack the Sri Lankan government from its own soil.

In a hard-hitting editorial, the government-owned *Daily News* the day after Dr. Pillay left Sri Lanka, said that “the U.N. High Commissioner’s prejudices have long been clear, but they have never been clearer than after her recent visit to this country.” The editorial went on to argue that the reaction at the end of her tour was expected and in fact, President Rajapaksa himself predicted it the day before. “He told her at Temple Trees (President’s official residence) that the people of this country think that her report to the UN at the end of her tour of duty will reflect her prejudice.” the paper reported. Welcoming her comments on the ruthlessness of the L.T.T.E., the *Daily News* said: “We may very well be able take her at her word that she has no truck with the Tamil Tigers, but if anybody on the streets gets that impression she has only herself to blame for it.” It pointed out that without informing the government in advance she had tried to lay a wreath in Nandikadal, the location of the final battle in which the L.T.T.E. was annihilated. The army officials on the location stopped her from doing it.

During her meeting with President Rajaaksa Dr. Pillay was reported to have told him that it was good she was able to come to see the developments in the country and it was “very visible” to her that the government has invested a lot in reconstruction work in the North.

Yet, the pro-L.T.T.E. *TamilNet* said that, according to informed sources in Jaffna when the Northern Province Governor Major General (retd) G.A. Chandrasiri was showcasing the development work in the area, she told him that she was more interested in witnessing what had been achieved on the human rights front. She also questioned whether the people on the ground had been consulted in designing the ‘development’ projects which were being displayed to her.

In addition to Dr. Pillay’s perceived ethnic Tamil bias, a lot of criticism in the Sri Lankan media and websites has focused on what are considered as her double standards in demanding an independent war crimes investigation on the final days of the war against the L.T.T.E. in

Sri Lanka, while being silent on U.S. and N.A.T.O. actions in Afghanistan, Iraq, Libya and currently in Syria.

Writing in *LankaWeb*, veteran journalist M.L.D. Mahindapala argued that Dr. Pillay had worked hand in glove with the European Union to accuse Sri Lanka of war crimes. “As early as May 2009 she has fired a broadside with regards to human rights violation which ran on parallel lines to the E.U. resolution tabled at U.N.H.R.C.” he pointed out. “On what criteria did she confine her condemnation of Sri Lanka to the last five months of war, leaving out selectively 32 years and 7 months of the longest war in Asia in which the Tamil Tiger terrorists used every conceivable weapons of war, including chemical warfare ?” asked Mahindapala.

The independent *Island* newspaper reported that the Defence Secretary Gotabaya Rajapaksa has told Dr. Pillay that the United States had no moral right to move a resolution targeting Sri Lanka at the U.N.H.R.C. He questioned her silence and argued that it reflected the difficulties experienced by the U.N.H.R.C. in dealing with atrocities committed by U.S.-led ‘western’ powers.

When Dr. Pillay was asked this question at the press conference, she merely said that the U.N.H.R.C. releases a report on every country each year and last year the U.S. had to respond to 19 queries. But she avoided saying anything more about these queries or why she had not articulated it publicly as she had done with Sri Lanka. “The bottom line was that Mrs. Pillay would remain as U.N. rights chief as long as she didn’t antagonise the U.S.” Defense Secretary Rajapaksa told the *Island*.

Sri Lanka’s Foreign Minister Prof. G.L. Peiris reiterated during a meeting with Dr. Pillay in Colombo that it is important to have an objective approach and extend equal treatment to all countries when fulfilling the assigned mandate of the U.N.H.R.C. The Minister added that Sri Lanka accepts constructive and justified criticism, but resents vicious and baseless positions, which are incessantly repeated. He had explained to Dr. Pillay the difficulties encountered in identifying the perpetrators of human rights violations due to the conditions prevailing at the time of incidence, with regard to a number of cases U.N.H.R.C. has raised which occurred during the war. He drew a parallel with the case of the assassination by the L.T.T.E. of the former Foreign Minister Lakshman Kadirgamar, where conviction has not been possible due

to the lack of evidence. In cases of missing persons, he outlined the difficulties in identifying the missing due to instances involving persons having migrated to other countries holding multiple identities, and those host governments not divulging their details.

It was indicated to Dr. Pillay that the repeated use of baseless and arbitrary figures in respect of disappearances eventually lends authenticity in the face of the massive propaganda which is being carried out against the government of Sri Lanka. Regarding comments made by the High Commissioner on the *Prevention of Terrorism Act*, the Minister stated that some of the countries which criticise, have provisions in their domestic legislation far beyond those of the Sri Lankan Act.

He advised Dr. Pillay to look at the human rights situation in Sri Lanka from a broader perspective and pointed out the impressive development indicators in the country since the war ended in 2009. He gave her information on the enormous amount of resources being channelled to the North, which has resulted in a 27 per cent growth rate in that region, as against corresponding national figure of 7 per cent. In this context, the Foreign Minister also informed Dr. Pillay that there are 225 bank branches and 76 finance and leasing companies which have been established in the Northern Province since 2009.

Dr. Pillay is due to make a report on Sri Lanka to the next U.N.H.R.C. sessions in October 2013, but many commentators in Colombo tend to believe that it will not be fair to the country.

A political columnist of the *Daily Mirror* warned against using the 'ethnic bias' argument to discredit Dr. Pillay's report. "The proponents of this ethnic bias argument are in effect playing into the hands of those seeking an impartial international investigation into charges against Sri Lanka." ... "The line pursued by those who desire an international investigation into alleged war crimes during the final phase of the war against the L.T.T.E. is that Sri Lanka would not be able to conduct an impartial investigation into those matters because of the ethnic factor. The predominantly Sinhala government would not conduct a free and unfettered probe into allegations against the predominantly Sinhala armed forces is the crux of the argument." noted the columnist. "Colombo, however, invokes the concept of sovereignty and counters such demands by saying that Sri Lanka as a nation is above ethnic considerations and is capable of conducting an impartial probe." he added. "What the



denigrators of Navi Pillay on grounds of ethnicity fail to take note of is that their campaign against the U.N. High Commissioner is strengthening the hand of those seeking an international investigation into Sri Lankan affairs.” he warned. ... “If Navi Pillay is deemed unsuitable because of alleged partiality due to ethnicity then the same argument would be applicable to Colombo too.” he concluded.

It is possible that Dr. Pillay’s activity is exploited for ulterior motives by the United States. The U.S. could be exploiting the issue of human rights violations to pressure the Sri Lankan government to distance itself from China. And that could have been - consciously more than unconsciously - the former Foreign Minister Senator Carr’s assignment from Washington. During the war, Rajapaksa’s government relied heavily on China for arms, finance and political support. Since the L.T.T.E.’s defeat, Colombo has depended on Beijing to fend off demands for an international war crimes inquiry in the U.N.H.R.C. At the same time, the Sri Lankan government is seeking to improve relations with the United States, in part to avoid possible war crimes charges.

The United States fully supported Rajapaksa’s decision in 2006 to restart the communal war against the L.T.T.E. and ignored the military’s atrocities until the L.T.T.E.’s defeat was imminent. A U.N. report estimated that the Sri Lankan military killed at least 40,000 civilians in the final phase of war.

In her press statement, Dr. Pillay made clear that she had no fundamental criticisms of the war or the military. She declared that she was pleased to come to Sri Lanka after the defeat of ‘terrorism’, adding that improvements in infrastructure and resettlement were ‘impressive.’ She did not oppose the military occupation of the island’s north, saying: “Clearly, the army needs some camps.” However, the High Commissioner did say that “the curtailment or denial of personal freedoms and human rights, or linked to persistent impunity and the failure of rule of law” continued in Sri Lanka and she warned that it “may sow the seeds of future discord.” She praised the L.L.R.C.’s limited recommendations, but noted the L.L.R.C. had “side-stepped” the issue of war crimes.

\* \* \*

Dr. Pillay is due, in March 2014, to submit a detailed, written report on Sri Lanka's actions in implementing the U.N.H.R.C. resolution.

The Rajapaksa government has in recent months taken several steps to comply with the resolution. These include holding provincial council elections in the North, a bogus investigation into the murder of five school children in Trincomalee, the release of some private properties acquired by the military in the North and the appointment of a commission to investigate disappearances in the North and East.

The Sri Lanka government is also desperate for a favourable outcome from the U.N.H.R.C. in view of C.G.H.O.M. 2013. It is concerned to secure the participation of government leaders from major countries - notably India.

Just one day before the country's provincial elections of 21 September 2013, Dr. Pillay accused some of the Sri Lankan government's most senior officials of waging a disinformation campaign against her. In a statement on 20 September 2013, Dr. Pillay aimed direct criticism at Gotabaya Rajapaksa, the powerful defence secretary and brother of President Rajapaksa, and other government officials. During her visit to Sri Lanka in August 2013, at least three government ministers "joined in an extraordinary array of distortion and abuse" which is continuing now, Dr. Pillay's spokesman Rupert Colville said in Geneva.

On 12 September 2013 Dr. Pillay's office sent a formal complaint to the Sri Lankan government demanding that it immediately retract and publicly correct "misinformation which has, not surprisingly, aroused much disquiet in Sri Lanka." Mr. Colville said.

The row came as Sri Lanka was preparing for provincial elections that many Tamils were hoping they would favour autonomy, something which years of war had failed to achieve. The elections could set up the Tamils' first, functioning provincial government and were expected to give them a limited say in their own affairs. "Let us have the right to look after ourselves." said C.V. Wigneswaran, a former Supreme Court justice and chief candidate for the Tamil National Alliance, the main Tamil party. He called the party's political goals "no violence, one country". Campaigning had been marked by sporadic attacks and threats, mainly against Tamil Alliance supporters.

The sweeping victory for the Tamil National Alliance on 21 September 2013 first-ever Northern Provincial Council in Sri Lanka carried a message. Read and acted upon with care and caution, it can be the only sure-fire way to attaining the still-elusive political rapprochement and resolution. Left to imagination and rhetoric, it can be the sure recipe for national disaster all over again.

Despite the failed hopes and fragile expectations of the rest in the fray, none, including the hardest and harshest of 'Sinhala nationalists' in the Sri Lankan government and the larger majority community, doubted that the Tamil National Alliance would record a handsome win. Yet, even the greatest admirers of the party would not have hoped for the Alliance to gain 28 out of the 36 elected seats. With the two 'bonus seats', as they are called, going to the party with the highest poll percentage - close to 80 per cent, the Alliance now has 30 members in the 38-seat Provincial Council.

On the face of it, the Alliance's massive victory is a message for the Sri Lankan government and the larger Sinhala polity. They now need to acknowledge certain ground realities and revive the political dialogue in a mutually-accepted format.

Despite the Tamil National Alliance's victory at the elections, Tamils were still complaining that the Sri Lanka government is conducting a deliberate policy of intimidation and violence against them.

Rights campaigners were calling on the new Australian Prime Minister Tony Abbott to follow the lead of the Canadian Prime Minister Stephen Harper and join a boycott of November's C.G.H.O.M. in Colombo.

According to the Australian Broadcasting Corporation, the South Asia correspondent had travelled to Northern Sri Lanka to investigate stories of Tamil hardship and discrimination. He was present when supporters let off firecrackers to welcome Ms. Ananthi Sasitharan back to her village outside Jaffna to celebrate her election to the newly formed local government established in Sri Lanka's north. Ms. Sasitharan is a hero to the local Tamil community in the Jaffna area. But as the wife of a missing Tamil Tiger leader, she is treated with suspicion by Sri Lankan authorities.

Here is what she had to say: “When I was selected as a candidate they spread this meaningless propaganda to destroy my image and reputation. After that they tried to kill me. Thugs came to my home and surrounded it, and my assistants were bashed by these thugs. ... “I live in fear. I am scared to move anywhere, and my children can't go to school because of the threats. I want the international world to know that I am not safe.”

As the A.B.C. correspondent noted: “The signs of development are everywhere in northern Sri Lanka. Bombed out buildings are being replaced with new structures and new roads and a railway are providing more access to the region than ever before.” This is the kind of ‘progress’ which must be shown to the participants in C.G.H.O.M. 2013. And he went on: “But Sri Lanka is still a country healing itself after the decades long civil war, and reports of abductions, physical violence and intimidation at the hands of security agencies are still taking place.”

The A.B.C. man spoke with a Sri Lankan political analyst and human rights advocate, who said: “We have a term that has passed into common parlance of white vans. That you might get 'white vanned.' What that means is that you will disappear.”

The A.B.C. correspondent drove to a village outside of Jaffna to meet someone who has first-hand experience with the ‘white vans’. He spoke with ‘Uma’ - not her real name, of course - who has not seen her husband in three years after he was taken in a ‘white van’. Uma said: “I was warned by someone not to go the court to file a case about my husband going missing. They also warned me that I wouldn't want my daughter also to have to live without a mother.”

The Sri Lankan army denies any involvement and Sri Lanka’s Foreign Minister Professor Peiris pointed to the recent election of the Northern Provincial Council as proof steps towards full political freedom are being taken. He said: “Well, what is being achieved is something very significant. It is the empowerment of the people of the north in a political sense.”

The political analyst told the A.B.C. correspondent: “ ... Colombo hosting the Commonwealth Heads of Government Meeting will be a chance for President Rajapaksa to showcase the undoubted economic ‘progress’ Sri Lanka has made since the war. But it will also enable the government to whitewash its human rights record. He then urged leaders such as Australia's Prime Minister, Tony Abbott, to consider not turning up. The analyst said:

“Given that the Commonwealth values are now embodied in a charter, given that there are human rights council resolutions on Sri Lanka with regards to human rights, how on earth can you have a Commonwealth summit in this country ?”

And the A.B.C. correspondent concluded: “Millions of dollars are being poured into rebuilding northern Sri Lanka. But along with roads, the electricity grids and the buildings come military bases, statues of Sri Lankan military heroes and posters of President Rajapaksa.”

On the evening of 27 September 2013 the Australian Broadcasting Corporation *Lateline* programme conducted an interview from New York with Dr. Pillay.

Briefly introduced by the presenter, here is what Dr. Pillay had to say:

“Let me say ... how pleased I was that the Sri Lankan Government did not place any obstacles in my seeing whomever I wished to, going wherever I went to. And that enabled me to meet both Tamil and Sinhalese communities both sides [having] lost ... sons, husbands, fathers ... families from both sides just wept and asked for my help in tracing their relatives.”

To the question: “What did they tell you about what life has been like in the four years since the end of the civil war ?” Dr. Pillay said: “The Tamils in particular in the north have huge complaints. For instance they feel completely threatened by the very heavy military presence there, the military have been positioned over Tamil lands, so that’s the second complaint that lands have been taken away. I met about 700 people in [Internally Displaced Persons] camps, all of them had been fishing folk or planted rice on paddy fields and their lands have been confiscated without compensation, some of them said that the military have built their structures over that. [There are] huge levels of insecurity, fear, surveillance and I saw that for myself. People whom I’d interview such as a Jesuit priest, a Christian father were immediately visited by the military even while I was still in the country and I complained to the Government about this.”

Requested about what evidence she had specifically uncovered which led her to express deep concern that the government of Sri Lanka was heading towards what she had called “authoritarian rule”, Dr. Pillay said: “What concerned me is that previously there were various independent commissions and it was the commissions who made recommendations on who

should be sitting as judges, who should be sitting on Electoral Commissions and so on and these commissions have been disbanded and all the selection now is in the hands of the President himself. He recently created [a] new ministry of law and order and he's placed that under him in the presidency, similarly defence is under the presidency.

I am also concerned that non-government organisations now have to undergo a registration system and that goes through Defence and obviously under the presidency so these are the authoritarian trends I was concerned about in a country which calls itself a socialist democracy; these just are totally inappropriate."

Because during the week Dr. Pillay had criticised Sri Lankans for not properly investigating allegations of war crimes during the country's civil war, and said that if they did not show progress on this by March of next year the international community would have to establish its own inquiry, and she had already drawn a rebuke from Sri Lanka's ambassador to the U.N., she was asked: what happens next ?

Dr. Pillay replied: "Let me say that all this stems from the commission set up by the Sri Lankan Government itself, called the L.L.R.C., the lessons learnt, and the rehabilitation committee. It's their own committee who made various recommendations including the investigation of crimes, during the conflict, and justice for victim, reparation for victims and memorial to be erected for all those who lost their lives.

And this is where the Human Rights Council comes in; they have urged Sri Lanka to implement their own recommendations and I then reported to the Council that that has not happened. Now, the L.L.R.C. recommendations fall short of our expectations on what should be done for proper accountability.

Nevertheless, they have not fulfilled even their own recommendations. I view this with some seriousness and this is why I am urging the Human Rights Council to consider that if implementation is not carried out, say, by March next year when I will be filing my further report, then the Council should consider credible international investigations."

The presenter of the programme reminded Dr. Pillay that some of her concerns about Sri Lanka, specifically where she talks about Tamils telling you of their fear and insecurity, ... are at odds with what [Senator Carr] Australia's own Immigration Minister of the Gillard government found when he visited the north himself six months before. The Minister had

then said that Tamils were most likely seeking asylum in Australia, not for fear of persecution but rather that they were looking for better job, a change in lifestyle.

Dr. Pillay had just heard a news report by the A.B.C. South Asia correspondent, and was able to say that there one could hear of a very public, transparent harassment and violence against a candidate who eventually won in those elections.

“Now, if something can happen there, in the eye of the public, you can imagine how much more is happening. I have spoken to actual victims, ... I went with an open mind, I wanted to hear from the people themselves so definitely there are huge grounds for fear, people are disappearing, journalists, activists, non-government organisations are being harassed. These [practices] have to be investigated and stopped. I would urge Australia and particularly the Immigration Department, to review each case on its merits, when they’re looking at a refugee or an asylum seeker, and not follow the government statement on this.”

The presenter once again: “More than 1,000 people from Sri Lanka have already been sent back by the Australian government, that is the previous [Gillard/Rudd] Australian governments. They say that they could not find any evidence to justify claims of persecution. Do you think that is likely to be because the situation has improved dramatically over the past four years, or could it be because the Sri Lankan authorities have become better at covering up their misdeeds ?”

Dr. Pillay: “The Sri Lankan government is justly proud of all the reconstruction, the building of roads, and other physical structures that they’ve put in place. These are obviously of benefit and it is very visible improvement in the north, that with the help of other governments including Australia, including the United Nations, they were able to achieve a physical reconstruction. But that is totally incomplete if you do not address the human rights situation, address the concerns of people and this is not the image then that Australia should take on board when they are looking at refugees. According to the Convention on refugees, the 1951 convention to which Australia is a party, there has to be an individual case by case review of refugees and asylum seekers.

For instance, when I was in Australia, in 2011, and visited the detention centres, I found a sizeable number of Sri Lankan refugees being held there, there was a group being held indefinitely, allegedly because of security concerns. Now that is a cause for concern in

August this year; the Human Rights committee ruled against Australia on this and requested Australia to release those detainees.”

The presenter: “Just today our very new Prime Minister, Tony Abbott has expressed the hope that *asylum seekers who arrive by boats would be no more than a passing irritant for his government* and for the Indonesians. *How do you feel about a world leader describing asylum seekers as irritants ?*” [Emphasis added]

Dr. Pillay minced no words: “I am deeply concerned by statements such as that because they promote a stigmatisation of a whole group of people and [are] totally against the vision and concept of the convention on refugees to which Australia is a party. Australia is actually known for having provided sanctuary and safety for many refugees, from the region and other parts of the world. Australia is known for readily rescuing people who are in distress, in boats that are unsafe, and against this good record I am appalled at statements such as this which justify discrimination against a whole group, a minority group, people who are coming to Australia, because conditions in their own countries are unbearable.

And let me emphasise again - these are poor marginalised men, women and children who are seeking safety in Australia, they should be rehabilitated and will be of benefit. *Migrants, refugees, must be seen for the value they can add to a country, rather than as some kind of irritants or toxic waste.*” [Emphasis added]

To the question: “Is it though not legitimate for a government to want to protect its formal immigration processes including an orderly humanitarian intake ?”

Dr. Pillay: “This is what the Refugee Convention is about. It understands the legitimate interest of a country, of Australia and [its] government, the Australian people, that they're not flooded with refugees. I know that in every state nationals are very wary that their jobs are being taken away by immigrants or migrants which actually is not factually correct.

Nevertheless there is that fear I understand then that Governments do have to protect their own citizens against an influx of outsiders, but international human rights standards must be observed at all times, *because these are human beings we are dealing with, they're entitled to fundamental rights and one of them is individual screening to understand their situation and*



*obviously no indefinite detention of people on so-called security grounds which the human rights committee has ruled against Australia in August.” [Emphasis added]*

\* \* \*

One month later Australians elected a new government. Eighteen men and one woman sit in Cabinet. The sole woman is Ms. Julie Bishop. “Classic Menzies Liberals” she says of her family history.

And back to Menzies, who was prime minister between 1949 and 1966, Australians might have gone.

Early in 2013, then as Opposition foreign affairs spokeswoman, Ms. Bishop decided to check out for herself how hellish life had been since the Tamil Tigers lost the 26-year civil war there.

Ms. Bishop believed that the gaps between different accounts of life in Sri Lanka yawned so wide that she had to see things for herself. So, with then shadow immigration spokesman Scott Morrison and then shadow customs and border protection spokesman Michael Keenan, she spurned all government and high commission offers of guides and escorts and placed her team in the hands of local Tamils.

Ms. Bishop and her colleagues stayed in Kilinochchi, a town at the heart of the failed Tamil rebellion, which had seen little development for decades. For two and a half days they were taken to meet people whose lives were scarcely vibrant, but who could provide no evidence - so Ms. Bishop said - of continuing persecution from Sri Lanka’s Sinhalese majority.

Ms. Bishop relayed her findings - which were later hotly contested by some in the Tamil community - to British Foreign Secretary William Hague and Commonwealth Secretary-General Kamallesh Sharma. The Commonwealth Heads of Government Meeting will most certainly be held in the Sri Lankan next November with an almost complete turnout expected.

“*Australia will be there !*” - as the old war song goes, which accompanied Australia’s participation in conflicts and wars, from the Australian colonies’ first representation in the

Sudan War in 1885 to the 'liberation' of Iraq and the running sore which Afghanistan has become.

Menzies had it sung in Vietnam, Howard took it to Afghanistan and Iraq, Rudd and Gillard kept it there - international war crimes all.

The hallucinating monarchist Prime Minister Tony Abbott will be in Colombo and prostrate himself before the forever heir pretender to power and privilege: Prince Charles.

By then 'the Palace' sycophants will have drafted some inane phrases with which Charlie will close the proceedings amongst lavish, phantasmagorical light-and-sound numbers.

And the Commonwealth of Nations will have delivered its 'shared values' to the hands of Mahinda Rajapaksa & Co.

Meanwhile Australia will continue 'to transport' Sri Lankan asylum seekers back - towards 'white vaning', gaoling, torturing and death.

\*\*\*\*\*

\* Dr. Venturino Giorgio Venturini devoted some sixty years to study, practice, teach, write and administer law at different places in four continents. He may be reached at [George.Venturini@bigpond.com](mailto:George.Venturini@bigpond.com).

