



SRI LANKA NAVY JOURNAL

April 2015

Volume 01, Number 1

KAPSK Kariyapperuma, USP, psc, hdmc
Captain(H)
Head of Naval Research Wing

Editorial Board

Commodore WDEM Sudarshana, RSP, USP, psc, MSc (D&SS), MA (SSS)

Captain (E) HK Dassanaiké, psc, BSc (DS) Mar Eng, MDS, CEng (SL), CEng (I), MIE(SL), MIE(I), MCPM

Commander (H) PK Warnakulasooriya, RSP, psc, BSc (DS)

Commander (G) AAC Karunasena, RSP, psc, BSc (DS)

Lieutenant (VNF) D Gunaratne, Eng (sp) Trained, BA, Dip in ETE, Dip in Journalism

Lieutenant (I) HMND Priyashantha, BSc (DS)

Printing

Naval Printing Unit

Design

Sri Lanka Navy Media

Publication

Sri Lanka Navy

P.O. Box: 593,
Naval Headquarters,
Colombo 01.

e-mail: slnjournal@navy.lk

ISSN 2448 - 9409

Sri Lanka Navy Journal

Sri Lanka Navy Journal is a bi-annual publication which provides the opportunity to discuss matters relevant to national interest and current global affairs. It serves as a potent medium for all serving members of the Navy to present their ideas, express their opinions and share their insights on subjects of national and global importance whilst enabling them to improve their writing skills and broaden their knowledge horizons.

The journal publishes papers and articles of professional interest to the Sri Lanka Navy.

Articles published in this journal reflect only the opinions of the authors and not necessarily those of the Sri Lanka Navy.

Copyright of all published articles rests with the Editorial Board of the Sri Lanka Navy Journal.

Reproduction of the articles published, in whole or in part, may be done only with the written concurrence of the Chief Editor.

Sri Lanka Navy Journal is registered with the National Library and Documentation Services Board (NLDSB). The International Standard Serial Number (ISSN) is 2448 - 9409.

All Rights Reserved.

FOREWORD



It is my proud privilege to pen the Foreword to the first edition of the Sri Lanka Navy bi-annual professional journal. This journal is yet another leap forward by Sri Lanka Navy focusing on improving officers and sailors reading and writing skills. I am extremely delighted after going through the content and it is certain that this will facilitate the opening a window of opportunity to present our thoughts and insights.

I firmly believe that empowerment and motivation are essential factors to harness creativity and innovation of our most valued asset. It is convinced that experience they gain through sharpening their professional skills will definitely assist Sri Lanka Navy to strive for desired maritime excellence in time to come.

I take this opportunity to extend my appreciation to all the officers and sailors for their contributions and I congratulate the Editorial Board for a job well done for making the thought a reality.

Finally, I encourage you all to take the time to read the journal, and also to contact us with your ideas for future articles and feedback.

I wish every success for the continuity of this professional journal.

Bon Voyage!!!

Jayantha Perera, RWP, VSV, USP, ndc, psc
Vice Admiral
Commander of the Navy

MESSAGE FROM THE EDITORIAL BOARD

The biannual Sri Lanka Navy Journal is the brain child of the Commander of the Navy Vice Admiral Jayantha Perera. It has become a reality with the successful launch of its inaugural edition. It is indeed a rare privilege and a great pleasure to be part of the worthy endeavour. We hope that the articles included therein will be of immense value and professional interest for the discerning reader.

The contribution of the authors is highly appreciated, giving due credit to their writing prowess. The quality of the biannual journal reflects their efforts in giving voice to their subject expertise and hard earned experience for the greater benefit of the entire Navy. The foundation laid today has to be built upon and the trail-blazing efforts need to be sustained into the future to reach new heights, paving the way for the daring to explore new frontiers. We encourage all officers and sailors to contribute to this effort with valuable contributions by way of articles, research papers, book reviews and many more that would make this humble endeavour worthwhile and mutually rewarding.

It is indeed a very happy coincidence, which enabled us to include the winning entries of the Navy's first ever Essay Competition in the inaugural issue of the journal. The award winning essays are very informative in content and reflect SLN's enormous potential. Their originality of presentation of innovative ideas and comments adds extra value to our efforts. We congratulate the winners and wish them every success in their future endeavours.

Further, we wish to express our sincere and whole-hearted gratitude to the Commander of the Navy for being an inspiration as well as guiding us throughout the whole process, the authors for sending quality articles for publication, SLN Media for all the ground support and the innovative design, the printer for a well turned out magazine and, last but not least, all those who contributed in numerous ways for making this journal the best product it could be.

Contents

●	INTERNATIONAL LAW FRAMEWORK IN RELATION TO PEOPLE SMUGGLING AND ITS ABILITY TO COMBAT MODERN INSTANCES OF PEOPLE SMUGGLING	01
	Rear Admiral JJ Ranasinghe, psc, MSc (DS) Mgt, MMaritimePol, Dip in CR, PG Dip in CPS, AFNI (Lond), JP (Whole Island)	
●	CONVENIENT FLAG OF CONVENIENCE: THREAT TO MARITIME SECURITY	12
	Captain (G) AKM Jinadasa, RSP, USP, NWC, psc	
●	THE SEA AROUND INTERATIONAL MARITIME BOUNDARY LINE (IMBL) BETWEEN INDIA AND SRI LANKA	20
	Captain (H) KAPSK Kariyapperuma, psc, MHS, BSc (DS)	
●	SRI LANKAN FISHERMEN: A POTENTIAL MARITIME SECURITY CONCERN?	25
	Commander (ND) R Joseph, RSP, psc, BSc (DS) Hons	
●	SOS: AN INTERVENTION TO REDUCE THE CONSUMPTION OF ADDED SUGAR, OIL AND SALT IN THE SRI LANKA NAVY	32
	Surgeon Rear Admiral NELW Jayasekara, VSV, USP, MBBS (SL), MSc (Med Admin), MCMA, MBA, MIN (SL), MD (Med Admin)	
●	ඉබේලා සහ ලෝක සෞඛ්‍යය	34
	වෛද්‍ය කොමාන්ඩර් චිච්චිඤ්ඤ සමරවික්‍රම, වෛෂ්‍යවෘත්ත	
●	E-GOVERNANCE IN SRI LANKA	37
	Lieutenant Commander (ND) RDIC Gunawardena	
●	THE IMPORTANCE OF TESTING DRINKING WATER	49
	Captain (E) HK Dassanaik, psc, BSc (DS) Mar Eng, MDS, CEng (SL), CEng (I), MIE (SL), MIE (I), MCPM	
●	DESTRUCTION OF LTTE FLOATING WAREHOUSES AND LITTORAL CONFRONTATIONS: WHY IT WAS SO IMPORTANT FOR THE FINAL OUTCOME OF THE WAR	55
	Commander (G) AAC Karunasena, RSP, psc, BSc (DS)	
●	මුහුණතල වරායේ තර්කාංගනය සහ නාවික කඳවුරෙහි ආරම්භය	62
	ලුතිනන් කොමාන්ඩර්(ස්වේ) චිච්චිඤ්ඤ පෙරේරා, ඩී	
●	FIGHTING TERRORISM: A MEDIA PERSPECTIVE	71
	Lieutenant (VNF) D Gunaratne, English (sp) Trained, BA, Dip in ETE, Dip in Journalism	
●	THE FORGOTTEN PHASES OF THE COUNTER INSURGENCY STRATEGY AND THE NEED FOR A COMMON SRI LANKAN IDENTITY	82
	Rear Admiral DMB Wettewa, USP, ndc, psc, MSc (DS) Mgt, MA (SSS)	
●	BOOK REVIEW – COMBAT STRESS	94
	Lieutenant Commander (E) SJDM Jayaweera BSc (DS), Mar Eng.	

Sri Lanka Navy Essay Competition 2015 - Winning Entries

නාවික අංශය

- විනයගරක සමාජ හිතකාමී යහපත් නාවිකයන් පිරිසක් බිහිකිරීමෙහිලා පේෂ්ඨ නාවිකයන් සතු
වත්මන් කාර්යභාරය 94
නායක සංඥා කේපීවස් ප්‍රනාන්දු
- ශ්‍රී ලංකා සාගර කලාපයේ ආරක්ෂාව තහවුරු කිරීමෙහිලා නාවික හමුදාව සතු වගකීම, කාර්යභාරයන්,
අභියෝග සහ විසඳුම් 100
සංඥා ඒච්චස්වන් කුමාර
- තාක්ෂණික දියුණුව හරහා සිදුවන පාරිසරික විනාශයන් වැළැක්වීම සඳහා මානව වර්ගයා සතු
වගකීම 103
සුළු හිඳධාරි එම්පීආර් ප්‍රියන්ත

LIEUTENANT COMMANDER & BELOW CATEGORY

- WHAT SHOULD BE THE IMMEDIATE OBJECTIVES THE SLN SHOULD AIM TO ACHIEVE IN
RESPECT OF MARITIME SECURITY AND ECONOMIC PROGRESS? 108
Lieutenant AADM Dias
- HOW BEST THE SLN SHOULD PROCEED IN IMPROVING THE EXISTING DIVISIONAL
SYSTEM TO PREVENT UNSOCIAL BEHAVIOR? 120
Lieutenant Commander (L) GLK Basnayake
- WITH THE EXISTING PEACEFUL AND STABLE SECURITY ENVIRONMENT ENJOYED BY SRI
LANKA, WHAT DO YOU THINK IS THE MOST PRUDENT STRATEGY THE COUNTRY SHOULD
PURSUE TO ACHIEVE INCREASED ECONOMIC AND SOCIAL PROGRESS? 126
Lieutenant WMHHDN De S Walisundara

COMMANDER & ABOVE CATEGORY

- THE EXISTING OFFICER'S PERFORMANCE APPRAISAL SYSTEM IN THE SLN (NAV 206)
AND THE AREAS OF IMPROVEMENT REQUIRED TO MAKE IT MORE EFFECTIVE FOR
OFFICER'S CAREER DEVELOPMENT 133
Captain (G) AKM Jinadasa, RSP, USP, NWC, psc
- THE EXISTING OFFICER'S PERFORMANCE APPRAISAL SYSTEM IN THE SLN (NAV 206)
AND THE AREAS OF IMPROVEMENT REQUIRED TO MAKE IT MORE EFFECTIVE FOR
OFFICER'S CAREER DEVELOPMENT 141
Commander (S) AS Galabadage, psc
- WHAT SHOULD BE THE IMMEDIATE OBJECTIVES THE SLN SHOULD AIM TO ACHIEVE IN
RESPECT OF MARITIME SECURITY AND ECONOMIC PROGRESS? 148
Commander (ND) R Joseph, RSP, psc, BSc (DS) Hons

INTERNATIONAL LAW FRAMEWORK IN RELATION TO PEOPLE SMUGGLING AND ITS CONSTRAINTS TO COMBAT MODERN INSTANCES OF PEOPLE SMUGGLING

Rear Admiral Jagath Ranasinghe, psc,
MSc(DS)Mgt, MMaritimePol(Aus), PG Dip in CPS, Dip in CR, AFNI(Lond), JP (Whole Island)

94 ***"Urgent***
 100 ***attention of the***
 103 ***international***
 108 ***community***
 120 ***is required***
 126 ***to create an***
 133 ***effective legal***
 141 ***framework to***
 148 ***administer issues***
 155 ***related to human***
 162 ***smuggling."***

Human smuggling has received increasing global attention due to the recent human disasters at sea that occurred during transportation of illegal migrants. The organized human smugglers operating through transnational networks have chosen rich, developed, countries as their most preferred destinations. The mode of transportation is mostly via fishing vessels, which are incapable of accommodating large numbers of illegal migrants. To maximize profits, the smugglers ignore safety and sanitary aspects of sea transportation. Most of the vessels used in human smuggling are unseaworthy, thereby travelling in them inherently dangerous and often fatal. Like in the case of human-trafficking, in human-smuggling, sometimes, children and women are loaded against their will. The issues like inhabitable, unseaworthy sea transportation, organized human smuggling networks, compelling women and children taking passage without their willingness have characterized the criminality of maritime migrant smuggling, and it requires urgent attention of the international community to create an effective legal framework to administer these problems to prevent maritime disasters related to human smuggling.

One can argue that under the international law and certain domestic laws of receiving and sending countries, punishment of both smugglers and illegal migrants is too lenient, compared to other smuggling acts like narcotics and drugs. These drawbacks are well known to the smugglers; hence, this illegal lucrative business is continuing¹. This is why the states need system law and enforcement action with international legal background to be effective against the human smuggling. This essay will analyse and explore the existing global legal instruments on human smuggling and their effectiveness. This essay also evaluates the feasibility of countering existing drawbacks through a new global approach, either through new legal instrument or by strengthening existing laws to protect humans from possible disasters occurring due to human smuggling and unsafe sea transfers.

¹ Brian Robinson, 'Smuggled Masses: The Need for Maritime Alien Smuggling Law Enforcement Act' (2010) 8(DA PAM 27-50-447) Army Lawyer 39.

International Legal Obligations to Prevent Human Smuggling:

International laws are powerful instruments in the battle against human smuggling. The United Nations Convention against Transnational Organized Crime (UNTOC) and its two related protocols, which came into effect in year 2003², are the most recent instruments of international law that have been implemented to counter and prosecute the human smuggling. This convention directs parties to act in a more cooperative manner to fight international maritime crimes³. The United Nations Office on Drugs and Crime (UNODC) has made these initiatives realizing the grave danger that human smuggling poses to human security. Under-mentioned legal instruments will be analyzed by the writer to explore its effectiveness in combating human smuggling.

The Palermo Protocols to the TOC Convention:

The TOC Convention has evolved to become the parent convention under international law to combat human smuggling. The smuggling protocol referred as the "Palermo Protocol" demands all parties to the agreement to initiate necessary action to prevent and deter the human smuggling and human trafficking under their legislation. Article 6 of the Smuggling Protocol provides provision to initiate legislative and other legal measures against human smugglers and categorize human smuggling as a crime against the state⁴. According to this protocol, all activities including organizing, supporting, promoting and attempting human smuggling should be considered as criminal offences and be covered by legislation to prevent them escaping under cover of soft laws. Article 8 of the same protocol allows the member parties to cooperate with each other to combat human smuggling, allowing the parties to board and search vessels for possible human smuggling and other transnational crimes of that nature⁵. The protocol encourages states to implement a strategy to strengthen their border control and surveillance measures to detect and apprehend law breakers and to punish them according to the domestic law of the state⁶. Instead of previously mentioned

² David Kyle and Rey Koslovski, *Global Human Smuggling: Comparative Perspectives* (Johns Hopkins University Press, 2011) 47

³ Robinson, 20

⁴ UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000 <http://www.refworld.org/docid/479dee06.html>

⁵ Kyle and Koslovski, *Global Human Smuggling: Comparative Perspectives*, 47

⁶ Robinson 59.

effective measures, the "saving clause" in the protocol insists that states provide protection and assistance to the illegal immigrants on refugee grounds⁷. This inclusion is contradictory to the concept of the smuggling protocol; hence, it has diluted the effectiveness of measures against the human smuggling. Article 19 of the protocol addresses the international humanitarian and human rights law obligations, and specifically mentions the protocols of the refugee conventions in 1951 and 1967 relating to the refugee status, addressing them as potential refugees⁸. Most of the refugees of today do not qualify under the above protocol and can be categorized as economic refugees seeking to prosper financially in countries of opportunity. This derives from the weaknesses in protocols against human smuggling which has not adequately represented the seriousness of the crime and offences as it should be⁹. Giving refugee status to people who are not entitled to the same, will certainly lead to many other problems because these people later become links and a source of encouragement to others who are waiting to take the same journey. Furthermore, often they establish links with employers who seek cheap labour in the recipient countries. Worst, some of these people could be criminals or terrorists, intentionally smuggled into a country for expanding local or international criminal and terrorist operations¹⁰.

Having realized the possible dangers of human smuggling, over 120 nations have ratified the protocol against human smuggling¹¹; but the protocol wanted to burden the sending state on arresting smugglers and illegal immigrants through strict domestic legislation and on the other hand, providing soft laws on receiving country and placing refugee status on illegal immigrant have an asymmetric approach. The protocols initiatives in placing stricter domestic legislation, but denying only the sending state without any demand on receiving country to arrest human smugglers and illegal immigrants will not serve the purpose. The writer believes this as a drawback of law enforcement in the protocol.

⁷UN High Commissioner for Refugees (UNHCR), UNHCR Article 1A(2) of the 1951 Convention relating to the Status of Refugees

⁸Asylum Border Control and Detention, Joint Standing Committee on Migration (Parliamentary Paper No 44 of 1994, Commonwealth of Australia), 55

⁹Robinson, 59

¹⁰Rey Koslowski, 'Economic Globalization, Human Smuggling and Global Governance' in David Kyle and Rey Koslowski, *Global Human Smuggling – Comparative Perspectives* (The Johns Hopkins University Press, 2011) 65

¹¹Koslowski, 71

The IOM, though with a limited membership, is involved in easing up the refugee issues emerged in human trafficking and human smuggling. Their measures include moving refugees to second countries of asylum, and supporting voluntary repatriation of refugees. The IOM is helping refugees to begin new lives with dignity and respect in a safe and orderly fashion, and their resettlement initiatives are sometimes unrecognized. Yet, it is a formidable outfit of international solidarity and burden sharing, dedicated to finding a durable solution for refugees¹². The IOM is well experienced in providing essential services in support of refugee resettlement programs and has arranged resettlement of refugees from 186 locations around the world. The IOM is capable of working closely with states, the United Nations High Commissioner for Refugees (UNHCR), and with NGOs in their resettlement programs and most of these resettled refugees eventually become naturalized citizens of their country of resettlement¹³. This IOM approach to resettlement can be used as a tool to address the illegal immigrant issue in receiving states by initiating a resettlement program with various capable countries, who could resettle these deserving illegal immigrants from around the world, on a burden sharing basis.

Bali Process:

The Bali Process was introduced in 2002 as a regional approach to combat human smuggling, human trafficking and other related transnational crimes. This initiative has effectively developed a strategy to enhance the regional cooperation in response to the consequences of people smuggling. The Bali process has more than 40 countries supporting its objectives. This can be developed through multilateral agreements and has a potential for much better outcome. Even though, the Bali process is a regional arrangement, it has a wide range of countries as members covering the regions that are affected by this problem.

The Bali process has developed a more effective information and intelligence sharing system, through the cooperation in regional law enforcement against people smuggling and trafficking networks.

¹²Michael Barutciski, 'Mass Refugee Flows and Burden - Sharing in the South Pacific' in Geoff Leane and Barbara Von Tigerstorm(eds), *Law Issues in the South Pacific International* (Ashgate Publishing Limited 2005) 26

¹³Ninna Nyberg-Sorensen, Nicholas van Hear and Poul Engberg-Pedersen(eds) 'The Migration-Development Nexus: Evidence and Policy Options' (2002) 40(3) *International Migration special issue* < <http://iom.ch/jahia/webdav/site/my 8.pdf>

This includes cooperation in the border and visa systems to detect and prevent illegal movements. There should be a committed approach to handle legal and other issues with mutual assistance like the Honiara Declaration in the South Pacific;¹⁴ but this objective is not up to the expectation of the Bali process yet.

Many illegal immigrants proceeding to receiving states are through another state. The recent disaster off Java confirms such arrivals to Indonesia from various sending countries with their final movement to Australia, which had started from there. The Dublin Regulation is the fine answer for this kind of illegal immigrants. According to this regulation, any refugee who reaches a country in Europe can apply for asylum in the country of first arrival only; it means that the country that he or she who enters first should provide the shelter.¹⁵ This is an ideal arrangement which compels such countries to effectively patrol their coast and monitor possible refugee movements, and also prevent unwanted immigration by adopting required measures. Since most countries view the refugee issue as someone else's problem, such an arrangement would require countries that allow refugees coming into their territory, to be responsible for their claims.¹⁶ This Dublin system is an accepted set of intergovernmental arrangement and rules on how to deal with the issues of actual asylum seekers and economic refugees.

Why Enforcement Action is Difficult to Tackle Human Smuggling:

The reviewed literature on human smuggling has proposed a speculative understanding about the causes of illegal migration through human smuggling. The most supportive argument on this issue is the living status disparities in a sending state and demand for migrant workers in advanced economies of receiving states. This could be the most important and influential factor that applies to human smuggling.¹⁷

¹⁴Neil Boister, 'Regional Cooperation in the Suppression of Transnational Crime in the South Pacific' in Geoff Leane and Barbara von Tigerstorm(eds), *Law Issues in the South Pacific International* (Ashgate Publishing Limited 2005) 55

¹⁵Gerald L. Neuman, 'Buffer Zones against Refugees: Dublin Schengen and the German Asylum Amendments'(1993) 33(3) *Virginia Journal of International Law* 506

¹⁶Michael Collyer, *The Dublin Regulation, Influences on Asylum Destinations and the Exception of Algerians in the UK* (2004) 17(4) *Journal of Refugee Studies* 376

¹⁷S.Castle, 'Why migration policies fail (2004) 27(2) *Ethnic and Racial Studies* 207, 205-27.

On the other hand, globalization of communication has revolutionized long distance transnational maritime movements. These sea movements are now affordable and easier than in earlier days. This has contributed to the momentum and the growth of illegal smuggling, making it a very lucrative illegal business at both ends.¹⁸ Fishing vessels support most of the transnational crimes at sea and it is the choice of smugglers too. Since fishing vessels fish in high seas, they are exempt from custom and immigration procedures. Use of Global Positioning Systems, Radars and high end communication systems by fishing vessels have eased navigation difficulties; however, the danger to humans onboard due to inhabitability and unseaworthiness still exist. In this context, there is a need to regulate movements of fishing vessels, either by licensing sea routes and areas or allowing inspection by state parties. The existing legal instrument, the 1993 Torremolinos Protocol, which is for the safety of fishing vessels, does not address vessels less than 24 meters in length.¹⁹ In this sense, either these vessels should not go into high-sea fishing or their passage should be tracked through a vessel monitoring system to find out their whereabouts for safety. Sailing without a tracking system should be considered a serious offence.

The other factor that attracts human smuggling is restrictive administration and immigration policies. Embassies of the most of the receiving states follow very restrictive Visa procedures in sending people for legal migration. Partners joining family and friends, the job market and high salaries appear to be other factors which contribute to the illegal human smuggling process.²¹

Refugee Status and its Effect: 1951 United Nation Convention on Refugees

Getting refugee status, mostly under the asylum seeker category, in the receiving state is the main goal of every illegal migrant. The 1951 United Nation Convention on Refugees addresses

¹⁸Khalid Koser, 'The Smuggling of Refugees' in David Kyle and Rey Koslowski, *Global Human Smuggling: Comparative Perspectives* (The Johns Hopkins University Press, 2011)

¹⁹J. Wang et al; *An Analysis of Fishing Vessel Accidents* (2005) 37 *Accident Analysis and Prevention*, 1019 - 24

²⁰Erik Jaap Molenaar and Martin Tsamenyi, 'Satellite-based Vessel Monitoring Systems for Fisheries Management: International Legal Aspects' (2000) 15(1), *International Journal of Marine and Coastal Law*, 70-5

²¹Gilbert A. Gilbert, and K Koser, 'Coming to the UK, What: What do asylum seekers know about the UK before arrival?' (2006) 32(7), *Journal of Ethnic and Migration Studies* 456-71

the vulnerability of deportation of such persons. According to this convention, refugees should not be penalized on the basis of their means of arrival into a country of asylum. While this course of action is fair to refugees who come under that category, a majority of illegal migrants smuggled into receiving states do not qualify for complete refugee status²².

Australia has a new policy with Papua New Guinea to help the receiving state to analyze and vet smuggled immigrants for refugee status. This procedure helps to identify only the desired personnel as per the refugee convention. EU nations have a similar arrangement where asylum seekers are transited in another country (e.g. Turkey) to ascertain their eligibility and start the application process therein²³. A similar re-admission agreement has been negotiated by the Dutch government with Romania. These readmission programs through bilateral agreements help identify eligible people for refugee status; but the ability of such countries to look after asylum seekers has always been in question. This was well evident in the Palermo Protocol's "saving clause", which has protected the refugees from being deported or returned to a state or place where lives and freedom might be more insecure and threatened²⁴.

The 1951 UN Refugee Convention has governed the "saving clause" in the smuggling protocol and it has restricted the protocol's ability in law enforcement against the illegal immigrants. This refugee convention was developed for a different purpose in a different era. This was not designed for present day problems such as mass refugee outflows and migratory movements, and is a basic instrument of refugee protection. The inclusion of this "saving clause" has created another problem in the Palermo protocol. It talks about the refugees in the receiving state but, it does not address the right of assistance to refugees in the sending states.

Human smuggling is a common issue for receiving countries as well as supportive to criminal activities that affect the world order. Thereby, the burden of present day has to be shared among the nations, but the Palermo protocol does not have any burden-sharing mechanism. One can argue that, as a measure, states are capable of withdrawing from the refugee convention and then can implement

²²Koser, 268

²³Annebelle Roig, 'EC Readmission Agreements: Agreements: A Re-evaluation of the Political Impasses' (2007)(@)& 9 European Journal of Migration and Law. 370

²⁴Khalid Koser, 'The Smuggling of Refugees' in David Kyle and Rey Koslowski, Global Human Smuggling: Comparative Perspectives (The Johns Hopkins University Press, 2011), 268-69

Palermo protocol effectively, but it is internationally unethical and unprecedented. This would be the other reason that demands new legal approach to address this tragic human smuggling issue.

Measures Compliance with International Law:

Most states affected by human-smuggling have realized the difficulties of combating this problem when complying with other international laws. Every state has a right to protect their borders to prevent and regulate illegal migrants entering into the state and is a fundamental act under the International Customary Law and the Law of the Sea Convention²⁵. The UNCLOS strengthens the coastal states jurisdiction over the area under state sovereignty and more precisely, the “contiguous zone” which forbids infringement of its customs, fiscal, immigration or sanitary regulations, and allows necessary legal proceedings as per the law regulations²⁶. The high seas, being global commons, have constraints. However, there are many legal arrangements which address the exigency situations on human security in high seas. These have been woven into the texture of the international law to prevent human disasters at sea.

Human smuggling detection demands immediate action; however, humanitarian aspects of international law prevent such actions. Procrastination often results in loss of life. In the recent boat disaster in waters near Indonesia, the Indonesians said that certain unilateral policies of Australia prevented them from taking appropriate action. On the other hand, Australia could argue that the disaster has happened in Indonesian Search and Rescue region and is the responsibility of Indonesia to act on the situation. The procrastination and delayed actions could be overcome through bilateral procedures; an action becomes immediate without leaving time for similar disasters and is the duty of every state to save lives at sea and ships in distress.

There are some questions that need the attention of the international community: why aren't people of receiving states getting onto leaky boats? what is that would make a group of human beings make the decision to embark on a possible suicide run?. The answer is obvious, every human being wants a better life. This stresses the need for a system of laws with high enforcement and jurisdictional power to prevent smugglers taking advantage of this human weakness.

²⁵ Robinson, 25

²⁶ Ibid, 44

Article 8 of the smuggling protocol demands that every state, party to the agreement, cooperates with member states, facilitating boarding and searching suspected vessels involved in human smuggling. States' obligations to prevent human smuggling also have a traditional approach that relates to the interdiction of a suspected irregular entry vessel, the rescue of persons at sea and safety of life at sea. The legal instruments such as the UNCLOS, the International Convention on Maritime Search and Rescue (SAR Convention); and the International Convention for the Safety of Life at Sea (SOLAS Convention) do have relevant closures that could be used against human smuggling. The UNCLOS allows states to render assistance to ships in distress in any navigation regime and the right of hot pursuit when it believes a foreign vessel has violated its laws. Any captain of a ship on passage is obligated by law to render assistance to any person found at sea in danger of being lost; and the ship should proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance.²⁷ The SAR Convention, which developed the international rescue plan, directs states to provide assistance using their assets to persons in distress at sea in their Search and Rescue region regardless of their nationality, status or situation. In this context, the SOLAS Convention directs states to act in a more cooperative manner with coordination so that survivors are disembarked from the assisting ship and delivered to a place of safety²⁸. One can argue as to what could be the place of safety and who should share the burden. When ships on passage, 'a place of safety' could be the closest convenient port en route and is the decision of the captain.

Conclusion:

Human smuggling of the present day has become a very broad issue and cannot be discussed in isolation. A discussions of human smuggling must include human tragedies at sea, asylum seeker issues, refugee rights, human security, readmission procedures and many more. The cruelty of human smuggling was evident in recent disasters like Java and Lampedusa; they have opened the eyes of the international community. Thus, there is a search for a new approach.

The principal instrument, the Palermo Protocol has many constraints due to certain inclusions like "saving clause" and "refugee" definition. These versions are not appropriate for the present day

²⁷UNCLOS art. 98(1)

²⁸Department of Prime Minister and Cabinet 'Report of the Expert Panel on Asylum Seekers' 15 May 2012<http://expertpanelonasylumseekers.dpmc.gov.au>

refugee. The refugee convention was created for a different purpose in a different era. Hence, applying the old convention with the antiquated definition has diluted the effectiveness of the human smuggling protocol. Vessel monitoring systems to administer small fishing vessels and their whereabouts are essential. The existing law instruments are not an effective deterrent; as such, transnational organized crime networks related to human smuggling are growing in every aspect that collates other criminal activities, paving the way to a sophisticated criminal enterprise.

REFERENCES

1. Barutciski, Michael, 'Mass Refugee Flows and Burden Sharing in the South Pacific' in Leone, Geoff, and Barba von Tigerstorm, *International Law Issues in the South Pacific* (Ashgate Publishing Limited, 2005) 9-34
2. Castle, S, 'Why migration policies fail (2004) 27(2) *Ethnic and Racial Studies* 205-27
3. Collyer, Michael, 'The Dublin Regulation, Influences on Asylum Destinations and the Exception of Algerians in the UK (2004) 17(4) *Journal of Refugee Studies*, 376
4. Droegge, Cordula, 'Transfers of Detainees: Legal Framework, Non-refoulment and Contemporary Challenges (2008) 90 (871) *International Review of the Red Cross*, 669-71
5. Gilbert, A., and K. Koser, 'Coming to the UK, What: What do asylum seekers know about the UK before Arrival' (2006) 32(7), *Journal of Ethnic and Migration Studies*, 456-71
6. Kyle, David, and Rey Koslowski (eds), *Global Human Smuggling - Comparative Perspectives* (The Johns Hopkins University Press, 2011)
7. Leane, Geoff, and Barbara von Tigerstorm (eds), *Law Issues in the South Pacific International* (Ashgate Publishing Limited, 2005) 55
8. Molenaar, Erik Jaap, and Martin Tsamenyi, 'Satellite based Vessel Monitoring Systems for Fisheries Management: International Legal Aspects' (2000) 15(1), *The International Journal of Marine and Coastal law*, 70-75
9. Neuman, Gerald L., 'Buffer Zones against Refugees: Dublin Schengen and the German Asylum Amendments' (1993) 33(3) *Virginia Journal of International Law*, 503-26
10. Nyberg-Sorensen, Ninna, Nicholas van Hear and Poul Engberg-Pedersen (eds), 'The Migration-Development Nexus: Evidence and Policy Options' (2002) 40(5), *International Migration Special issue* < <http://iom.ch/jahia/webdav/site/my8.pdf> > 1-51
11. Robinson, Brian, 'Smuggled Masses: The Need for Maritime Alien Smuggling Law Enforcement Act' (2010) 8(DA PAM 27-50-447) *Army Lawyer*, 20-44

pose
the
man
mall
law
onal
ving
way

outh

12. Warner, Robin, 'Joining Forces to combat Crime in the Maritime Domain: Cooperative Maritime Surveillance and Enforcement in the South Pacific Region' (2008) New Zealand Armed Forces Law Review 1-20 < [Http://ro.uow.edu.au/lawpapers /170](http://ro.uow.edu.au/lawpapers/170)>
13. Wang, J., et al, 'An analysis of fishing vessel accidents' (2005)37 Accident Analysis and Prevention, 19-24
14. Global Alliance against Traffic in Women (GAATW) 'Smuggling and Trafficking, Rights and Intersections' (GAATW Working Paper, 2011)
15. Guilfoyle, Douglas, 'The International Legal Framework for Interception at Sea: The Interface of International Maritime and Criminal Law' (Presentation, Faculty of Laws, University) <[http:// www.google.com.au/search=The International Legal Frame work for Interception at Sea](http://www.google.com.au/search=The+International+Legal+Frame+work+for+Interception+at+Sea)>
16. Warner, Robin, 'People Smuggling - Policy and Practice in the Australian Context' (Presentation done for Maritime Policy Post Graduates at Australian National Centre for Ocean Resources and Security, 10th Sep 2013)

CONVENIENT FLAG OF CONVENIENCE: THREAT TO MARITIME SECURITY

Captain(G) Kalana Jinadasa, RSP, USP, NWC, psc, Dip in CR

Introduction:

“A Flag of Convenience is nothing other than unethical legal fictions designed to escape the safety controls, social legislation, taxation, and maritime policies required by other nations.”

- Rodney Carlisle

More than forty thousand merchant ships and a countless number of smaller coastal craft ply world oceans which comprise nearly seventy per cent of the earth's surface. Each year approximately ten million containers of cargo, containing raw materials to finished goods, are transported by sea¹. The ships are owned by different states, private companies or individuals and manned by a mixture of seafarers from different countries, mixed together from various nationalities. These ships are perhaps the most autonomous entities on earth as rule of law allows frequent change of their allegiance or identity by choosing a flag to suit their requirement.

Although merchant ships spend most of their lifetime outside the territorial waters, the current international maritime legal regime is ironically revolved around nationality of the vessel. Every vessel engaged in international trade must register in a country and is subjected to the regulatory control of that country whose flag it flies as per the existing international maritime law. As a result, any country has the right to allow a vessel to fly its national flag and to therefore bestow its nationality upon that vessel². When a vessel owner registers a vessel with a nation, the owner agrees to abide by that nation's laws and regulations of that 'flag state' in return for protection and the right of its vessel to be of that sovereign state. A system commonly known as 'Flag of Convenience' (FOC) has developed, in which commercial vessels register in countries with 'open registries'³ and consequently the ships contain practically no link at all to the flag states in which they are registered.

¹ITF Annual FOC Report, available at <http://www.itf.org.uk/seafarers/foc/report2001/pages/s05-01.html>

²United Nations Convention on the Law of the Sea, Art. 91. Dec, 4, 1982.

³Justin C. Mellor, Missing the Boat: The Legal and Practical Problems of the Prevention of Maritime Terrorism, (2002) Brassed off Flags of Convenience under Threat, The Economist, May 18, 2002.

Freedom of the 'High Seas' and the International Legal Regime:

As early as the Roman Empire, the use of the world's oceans and maritime laws has operated on unwritten principles of freedom of the seas, which provided unrestricted access for the basic activities such as fishing and travelling⁴. In 1609, Hugo Grotius, a Dutch scholar, published 'Mare Labrum' (The Free Sea or The Freedom of the Seas), in which he codified the generally accepted principles of freedom at sea, giving nations equal and unrestricted access to the oceans and the sources therein⁵. 'Mare Liberum' remained the dominant guiding principles of international maritime law until the beginning of the twentieth century. Following the Second World War, rapid technological developments and the increasing awareness of the finite nature of the ocean resources highlighted the need for bringing together maritime law. This recognition of the need for a uniform international maritime regulatory regime led to the UNCLOS in 1958, the UNCLOS II in 1960 and the UNCLOS III in 1970. The most recent was adopted by the UN General Assembly in 1982 and became the foremost international agreement regulating the maritime world which entered into force on November 16, 1994.

The UNCLOS defines the High Seas as the area of the ocean that falls beyond any one country's Exclusive Economic Zone (EEZ), the limit of a country's jurisdiction⁶. One of the key flaws in the UNCLOS is that it only applies to states, thereby leaving the maritime activities of non-state actors largely unregulated by international law. As a result, non-state actors such as shipping companies, ship owners, and even armed groups / terrorist organizations hugely benefitted. Even though international treaty laws as well as customary international law have developed mechanisms to suppress acts of violence at sea, such as piracy or other acts directed against ships, airplanes or platforms, these mechanisms do not explicitly provide measures in response to the use of the sea for transportation of weapons and ships being used as weapons or logistical support for terrorists.

This situation has slightly changed with the adoption of the 2005 Protocol to the Convention for the Suppression of Unlawful Acts (SUA) Against the Safety of Maritime Navigation (Rome

⁴Marine Navigation: Freedom of the Seas. David J, Mitchell, Philip A, Collier, Frank J, Leahy & Brian A. Murphy. The United Nations Convention on the Law of the Sea and the Delimitation of Australia's Maritime Boundaries.

⁵Hugo Grotius, The Freedom of the Seas, (Ralph Van Deman Magoffin. trans, Oxford University Press 1633).

⁶http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

Convention)⁷. The other precautionary modification reflected in the amendments to the International Convention for the Safety of Life at Sea (SOLAS Convention) is 'Special Measures' to Enhance Maritime Security" where member states are required to establish an International Ship and Port Facility Security (ISPS) Code. Further bi-lateral maritime arrangements such as the Container Security Initiative (CSI) and the Proliferation Security Initiative (PSI) have been introduced as stop-gap measures by the United States with selected countries. The North Korean cargo vessel *So San* issue in 2002 has instigated the Proliferation Security Initiative (PSI). This program seeks states to open their own flagged vessels to inspection and to interdict vessels with suspicious cargo once they enter their territorial waters.

Flags of Convenience (FOC): History & Present Practices

Ships used to fly the national flag of their home country since they started sailing. However, flying national flags of other countries has been practised for strategic reasons for centuries as well. During the Napoleonic Wars, British ships flew the flags of various minor German principalities to avoid the French blockade and during the War of 1812, US ships crossing the Atlantic Ocean flew under the Portuguese flag to avoid British harassment and detention. Until the 19th Century ships carrying slaves for trade flagged outside of the United States and Latin American countries to avoid international anti-slave trade agreements. During the American prohibition era in the 1920s, the owners of two US-flagged passenger ships registered their ships in Panama in order to be able to serve liquor on board the ship. Shortly thereafter, Honduras entered into the arena due to the United Fruit Company's desire to ensure cheap reliable transportation of its bananas. Liberia's entrance several decades later was due to the United States's desire to have a fleet of neutral ships to call upon during the Cold War in the event of a Soviet aggression.

The phenomenon of Flag of Convenience (FOC) at present is driven by the desire of ship owners to avoid the high costs and tedious restrictions associated with registering ships in a major maritime state. In return, countries that provide FOC status/nationality are benefited by the boost to their economy. The FOC is also referred to as 'open registries' because they allow registration of ships that are owned and controlled by foreign nationals, either individuals or corporations.

⁷The amendment to the SUA or Rome Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, ILM 27 (1988) 672, UNTS Vol. 1678 No.29004

entities. Key reasons for seeking FOC are easy registry access and unrestricted transfer from the registry. The country of registry more often has neither the power nor the administrative framework to effectively impose domestic or international regulations; nor does it wish to exert control over the companies. The states that run open registries enjoy bulk of their national income by allowing ships to use their flag and for example, the income of Liberia from open registry constitutes thirty percent of their national budget.

Terrorist organizations such as Tamil Tigers or LTTE of Sri Lanka have operated ships with FOC for terrorist activities. Despite destruction of as many as seventeen of those ships, intelligence sources believe that they still operate a fleet of ships even after the annihilation as a terrorist outfit in 2009 for illegal activities such as human smuggling and drug smuggling. Al Qaida is believed to own a fleet that flies FOC. Thus, FOC offers a veil under which dubious ship owners/ operators may hide so long as they pay their dues, leading to dangerous consequences. Cargo owners are also excluded from the authority of the UNCLOS and the shipping company and vessel owners are also more often than not unregulated.

Flag State: The nationality of ships is the basis upon which the international maritime regime is functioning and Article 91 of the UNCLOS allows flag states to determine the conditions for ship registration and requires the existence of a genuine link between the ship and the state. A state should have a 'genuine link' entitling it to register a ship and to authorize the ship to use its flag. However, the lack of a genuine link does not justify another state in refusing to recognize the flag or interfere with the ship in question, which eventually leads to an enormous loophole where nefarious actors take advantage of. The purpose behind flagging is to grant ships a nationality so they can be regulated and registering is the administrative formality that grants nationality. It is the role of the flag state to enforce standards set forth in international maritime conventions to which the state is a party, but the big question is whether flag states providing FOC are really capable of involving in this matter. Flag states do not essentially have control over ships operated by terrorists when a ship being used as a weapon or engaged in a terrorist activity and such ships should be treated as ships without nationality. This would mean that any state would be entitled to arrest and seize such ships.

FOC vessels account for nearly 20,000 ships worldwide which are one forth of the vessels over 100 gross tons in the world fleet, and almost seventy percent of the world's gross tonnage in

2010. Even well established large shipping lines too are becoming FOC vessels. A Flag of Convenience is mentioned as nothing other than 'unethical legal fictions designed to escape the safety controls, social legislation, taxation, and maritime policies required by other nations'⁸. US maritime officials suggest that US ports could be struck by a cargo ship filled with fuel oil and ammonium nitrate fertilizer; a ship could carry a radiological bomb into a harbor; a speedboat carrying explosives could blow up a tanker laden with oil or deliver liquefied natural gas etc⁹. These security issues presented the lack of transparency combined with the murky system of ship owners facilitated by the FOC system which makes ports are wide open to several types of terrorist attacks.

Maritime Trade & Security Concerns:

Maritime domain with vast expanse and lucrative targets and a large number of vessels offer a conducive medium for potential terrorist activities. Devastating effects to global economy could be caused by targeting these vessels. Historically, insurgents and terrorists have depended on the support of sympathetic states, but this has been reduced and groups have resorted to criminal activities for their funding. The narco-terrorist phenomenon, as portrayed by the FARC in Colombia, is the most obvious example of insurgent criminal behaviour. Terrorist groups such as the LTTE and the Al-Qaeda have involved in a wide range of illegal enterprises, including arms smuggling, dealing in counterfeit goods, money laundering and human smuggling. The range of criminal activity at sea is already large and appears to be growing in spite of the annihilation of its forerunner in this field, the LTTE. The Al-Qaeda's successful attacks have taken place around the Arabian peninsula. Other attempts including a plan to attack US warships in the Strait of Hormuz using ships laden with explosives, an attempted attack on American and British naval vessels in the Strait of Gibraltar and a planned attack on US warships in Singapore in 2002 have been disrupted. Since the USS Cole attack in 2000 all navies have taken additional precautions to prevent repetition.

⁸Rodney Carlisle, *Sovereignty for Sale. The Origins and Evolution of the Panamanian and Liberian Flags of Convenience* 10-11 (Annapolis: Naval Institute Press, 1981).

⁹Tim Weiner, *U.S. Law puts word on notice*, N.Y times Mar.24.2014, available at <http://www.nytimes.com/2014/03/24/international/americas/24port.html>

Insurgents and terrorists have also used the sea successfully for logistical purposes. Hezbollah and some of the other anti-Israeli groups move large quantities of arms into Lebanon and Gaza by sea, the al-Qaeda and its affiliates are known to have moved bomb materials by sea prior to both the East African and Bali attacks, and the LTTE, the GAM and various Philippine groups have operated in these maritime theatres. Existing maritime laws can shield cargo from inspection unless it is done by United Nations Security Council resolutions.

Narcotic trafficking and arms smuggling are also important aspects whilst considering the maritime security. Due to huge profits, these become most money-spinning means, which is used to finance terror networks. And gunrunning by sea is the safest means for transferring arms. The link between drug traffickers and arms smugglers is prominent and is a known fact. Maritime piracy has become a significant impediment to global maritime commerce. The estimated annual cost of piracy to global economy is around USD 7 to 12 billion. The projected cost of piracy by 2014 is USD 13-15 billion.

Some insurgent campaigns have been mounted on the high seas. Reason behind only a few has been that only in very few places around the world have political conflict coincided with favourable maritime geography. The main campaigns have taken place around Sri Lanka, parts of Southeast Asia, and the eastern Mediterranean. Lesser campaigns have occurred around the Arabian peninsula, Cuba, and Nicaragua. Nigeria has experienced piracy and criminal violence since the 1970s.

The United Nations General Assembly Resolution 61 urges all states 'unilaterally and in cooperation with other States as well as relevant United Nations organs, to contribute so the progressive elimination of causes underlying international terrorism and to pay special attention to all situations... that may give rise to international terrorism and may endanger international peace and security.'¹⁰

It was the 9/11 attack that created the environment and sparked a search for similar scenarios concerning the vulnerability of commercial shipping. For fear that pirates might be in a position to

¹⁰K.X Li & Jim Mi Ng International Maritime Conventions: Seafarers' Safety and Human Rights, 33 J march L & com. 381,394 (2002), citing UNCLOS (1982), Art 98 (2), GAOR, 40th sess, Res 651, UN Doc A/Res/40/61 (1985)

teach terrorists how to use ships for a variety of purposes including as weapons, the threats of piracy and maritime terrorism have been yoked together. The 2005 protocol to the Rome Convention was developed as a direct response to the 9/11 and an attempt to define the offences more broadly. It is of paramount importance to develop a stronger regulatory framework capable of implementing the international law set forth in the UNCLOS and the UNCLOS should remain the centrepiece of this framework in order to promote international uniformity.

Conclusion:

The law of the sea developed in a way that is very different from the law of the land as expectation historically would have been that the individual states and maritime powers would defend their maritime freedom. It is only through a combination of tightening controls over flag states, increasing the authority of port states, and creating a truly international political discourse through the United Nations that the international community can create a more effective international maritime legal regime.

The need of the hour is to implement an effective international political discourse through dialogue and create a more effective international maritime legal regime through the United Nations to increase the security at sea in order to prevent non-state actors from exercising the freedom at sea by the use of Flag of Convenience and by doing so, to regulate the use of open registry, such as with more checks and balances at every port call, de-register after certain periods of inactivity where no port calls or anchorages are recorded, authorisation to board by any nation on reasonable suspicion of committing rogue or ambiguous activity etc. Creation of a strong but practicable maritime regime will take a tremendous amount of resources, both human and monetary, as well as a great deal of strategy and compromise among nations. Such investment will be of a tremendous relief to the legitimate uses of the world oceans.

REFERENCES

- 1 Rudiger Wolfrum, *Fighting Terrorism at Sea: Options and Limitations under International Law*.
- 2 Tina Shaughnessy & Ellen Tobin, *Flags of Inconvenience: Freedom and Insecurity on the High Seas*.
- 3 William Langewiesche, *Anarchy at Sea*, *The Atlantic Monthly*, Sept 2003.
- 4 International Marine Science and Technology, *The United Nations Convention on the Law of the Sea (UNCLOS)*, <http://www.marinc.gov.uk/unclos.htm> (last visited 1/10/04).
- 5 Deirdre M. Warner-Kramer & Krista Canty, *Stateless Fishing Vessels: The Current International Regime and a New Approach*, (2000).
- 6 H. Edwin Anderson, *The Nationality of Ships and Flags of Convenience: Economics, Politics and Alternatives*, (1996).
- 7 Jeremy Firestone & James Corbett, *Combating Terrorism in the Environmental Trenches: Responding to Terrorism: Maritime Transportation: A Third Way for Port and Environmental Security*.
- 8 Edwin Anderson, *The Nationality of Ships and Flags of Convenience: Economics, Politics, and Alternatives*.
- 9 United Nations Convention on the Law of the Sea, <http://www.cfr.org/international-law/united-nations-convention-law-sea/p16396>
- 10 National Oceanic and Atmospheric Administration of US Dept of Commerce, http://www.gc.noaa.gov/gcil_glossary.html.
- 11 John E. Noves, *International Law of the Sea*, <http://www.jstor.org/stable/40707349>

THE INTERNATIONAL MARITIME BOUNDARY LINE (IMBL) BETWEEN INDIA AND SRI LANKA

Captain (H) KAPSK Kariyapperuma, psc, MNS, BSc (H)

Introduction:

“From the Sri Lankan perspective, the most significant aspect of the agreement was that it resolved, once and for all, the vexed question of sovereignty over the Kachchativu Island.”

The sea around the International Maritime Boundary Line (IMBL) between India and Sri Lanka is a huge area. The IMBL marked on navigational charts in purple colour starting from the junction (T) point in the South and runs through the Gulf of Mannar, the Palk Bay, the Palk Strait and the Bay of Bengal up to the Exclusive Economic Zone (EEZ) of Sri Lanka in the North. Therefore, the length of the IMBL is more than 600 Nautical Miles (1,122 km). The length of the IMBL in the critical sea area dividing seas between India and Sri Lanka in the Palk Bay and the Palk Strait is around 187 Nautical Miles (187 km).²

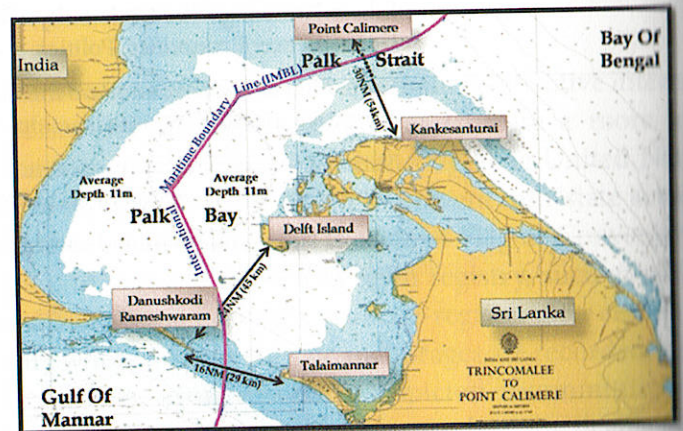


Figure 1 - IMBL in Palk Bay & Palk Strait

Source: Navigational Chart of Trincomalee to Point Calimere, British Admiralty Chart No: 1584, Taunton, UK, December 18, 1987

The gap between India and Sri Lanka is about 24 Nautical Miles (45 km) in the Northern peninsula in the Palk Bay and Palk Strait.³ That area is equally divided between the two countries, falling 12 Nautical Miles into each side in the Palk Bay and the

¹Navigational chart of Trincomalee to Point Calimere, British Admiralty Chart No: 1548, Taunton, UK, December 18, 1987 accessed on January 15, 2014

²Ibid.

³Navigational chart of Trincomalee to Point Calimere, British Admiralty Chart No: 1548, Taunton, UK, December 18, 1987 accessed on January 15, 2014

Strait. The shortest distance between the two countries is 16 Nautical Miles (29 km) from Talaimannar to Dhanushkodi in Pamban Island (Rameswaram) in India along the Adam's Bridge.⁴ The distance from the Kankesanthurai harbour in Sri Lanka to Point Calimere in India in the Palk Bay is 30 Nautical Miles (54 km).⁵ The IMBL bisects these sea areas between India and Sri Lanka.

The seas in the Palk Bay, the Palk Strait and the Adam's Bridge area in the Gulf of Mannar are shallow in nature and the average depth is around 11 meters.⁶ Therefore, these sea areas are rich in marine life and marine eco systems. The Gulf of Mannar is one of the world's richest marine biodiversity spots.⁷ The Indian side of the Gulf of Mannar has already been declared as a Marine National Park. It was recognised as a UNESCO Man and Biosphere Reserve (MAB) in 1989.⁸ Research is underway to declare Sri Lanka's side too as an MAB.

In a navigation chart, the IMBL is marked in purple color.⁹ It is not possible to put any demarcation marks like buoys in the mid sea showing the IMBL physically because it will be exposed to the monsoon and will be washed away. That sort of physical demarcation is not possible. This gives some idea about the critical condition of the sea area along the IMBL between India and Sri Lanka. Therefore, it is very difficult to police this vast sea area effectively against illegal activities which could be a threat to the maritime security in the Indian Ocean Region. At present, poaching is the main issue in the IMBL area. All other issues are mainly connected with the poaching. Poaching aids and encourages illegal activities like smuggling of goods, human smuggling, maritime terrorism, piracy, marine pollution and environmental damage in this area.

United Nations Conference III on the Law of the Sea:

With the United Nations Conference III on the Law of the Sea held in Geneva from 1973 to 1982, there was a necessity to demarcate

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ J. Subramaneam, 'Gulf of Mannar – A Global Biodiversity under threat',

Tamil Nadu Green Movement, at <http://www.tngreenmovement.org/articles/gulf-of-mannar-a-global-biodiversity-under-threat.html.htm> accessed on April 30, 2014.

⁸ Ibid.

⁹ 'Navigational chart of Trincomalee to Point Calimere', British Admiralty Chart No: 1548, Taunton, UK, December 18, 1987 accessed on January 15, 2014.

the breath of maritime boundaries like territorial waters, EEZ and the Continental Shelf of the coastal states.¹⁰ Before the UNCLOS II coastal states adopted the "Cannon shot" rule, which is 3 Nautical Miles as their territorial waters.¹¹ Other than territorial waters, boundaries were demarcated. Therefore, with the 3 nautical mile rule, no overlapping was created in sea areas between India and Sri Lanka. With the 12 Nautical Miles of territorial waters and the 200 Nautical Miles of the EEZ adopted by UNCLOS III, India and Sri Lanka were faced with the problem of overlapping of their new boundaries in the Gulf of Mannar, the Palk Bay, the Palk Strait and the Bay of Bengal.¹² In order to resolve those issues concerning the maritime boundary between India and Sri Lanka, the two countries entered into protracted negotiations and signed an agreement to take effect in June 1974.¹³ The agreement demarcated the international maritime boundary between India and Sri Lanka in their historic waters in the Palk Strait and the Palk Bay, and resolved the question of overlapping created by both countries of the limits of their territorial waters and the EEZ as per the UNCLOS III.¹⁴ It demarcated the maritime boundary in the Palk Strait up to Adam's Bridge, a distance of approximately 86 Nautical Miles. The agreement defined 6 points which were equidistant from the coasts of the two countries. The agreement gave each country sovereignty and exclusive jurisdiction over the land and the waters on its side of the boundary line. As per the UNCLOS III,¹⁴ the vessels of each country are free to enjoy right of innocent passage in each other's waters as they have traditionally enjoyed. Further, each country is free to exploit the seabed resources like petroleum and mineral resources only found on its side of the boundary. From the Sri Lankan perspective, the most significant aspect of the agreement was that it resolved, once and for all, the vexed question of sovereignty over the Kachchativu Island. The agreement did not refer to Kachchativu, but under the agreement, the island fell on the Sri Lankan side of the boundary.

¹⁰The United Nations Convention on the Law of the Sea (A historic perspective), UN, 1988 at http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm accessed on May 20, 2014.

¹¹ Ibid.

¹² Ibid.

¹³Limits in the seas, No. 66, Historic Water Boundary: India-Sri Lanka, The Geographer, Bureau of Intelligence and Research, U.S. Department of State, December 12, 1975 at <http://www.state.gov/documents/organization/61460.pdf> accessed April 18, 2014.

¹⁴United Nations Convention on the Law of the Sea, UNO, 1982, p. 23 at http://www.un.org/depts/los/convention.../unclos_e.pdf accessed on April 21, 2014.

1976 IMBL Agreement:

In March 1976, the two countries signed another maritime boundary agreement demarcating the boundary in the Gulf of Mannar and the Bay of Bengal, and gave each party sovereign rights and exclusive jurisdiction over the continental shelf, the Exclusive Economic Zones (EEZ), and the territorial waters as well as over their resources, whether living or non-living, falling on its side of the boundary.¹⁷ Regarding the marine area between India and Sri Lanka in the Gulf of Mannar, the agreement defined 13 points which were equidistant from the coasts of the two countries.¹⁸ In the Bay of Bengal, it defined 8 points.¹⁹ The line connecting these points constituted the maritime boundary in the area.

In November 1976, a supplement agreement determined the extension of the maritime boundary of the Gulf of Mannar from the position 13 M to the tri-junction point (T) between Sri Lanka, India and the Maldives. The three countries also entered into an agreement in July 1976, determining the tri-junction point (T) itself.²⁰ Here,

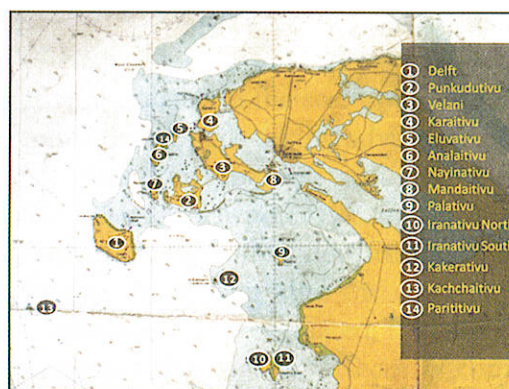


Figure 2 – Island sector, North, Sri Lanka²

²Source: compiled by the Author, 'Navigational Chart of Trincomalee to Point Calimere', British Admiralty Chart No: 1584, Taunton, UK, December 18, 1987 accessed on January 15, 2014.

¹⁷Agreement between the Government of India and the Government of the Republic of Sri Lanka on the Maritime Boundary in the Gulf of Mannar and the Bay of Bengal', INDIA Bilateral Treaties and Agreements, Vol 9, New Delhi, March 23, 1976 at <http://www.commonli.org/in/other/treaties/INTSer/1976/8.pdf> accessed on April 20, 2014.

¹⁸Ibid.

¹⁹Ibid.

²⁰Supplementary Agreement', INDIA Bilateral Treaties and Agreements, Vol 9, Colombo, November 22, 1976 at <http://www.commonli.org/in/other/treaties/INTSer/1976/8.pdf> accessed on April 20, 2014.

it should be noted that the agreements concerning the demarcation of maritime boundaries, such as the acceptance of the principle of equal distance is in line with the international body of law enshrined in the United Nations Convention on the Law of the Sea and in this way a concession to Sri Lanka. But it certainly reflected the spirit of accommodation on the part of India through the negotiated settlement.

Sri Lanka had maritime boundary line demarcation issues only with India and the Maldives. As per the UNCLOS III, if the maritime boundary line of a country overlaps with another country when demarcating, they need to resolve this conflict by mutual discussion, giving priority to the equal distance method over their low water lines of the coasts.²¹ Sri Lanka had resolved all international maritime boundary line issues with both the countries, India and the Maldives, by signing 3 maritime agreements on mutual discussions. It is a positive factor in Indo-Lanka naval relations.

SRI LANKAN FISHERMEN: A POTENTIAL MARITIME SECURITY CONCERN?

Commander (ND) R Joseph, RSP, psc, BSc (DS) Hons

*"If ignorant
both of your
enemy and
yourself, you
are certain to be
in peril."*

-Sun Tzu

Sri Lanka stepped into a new era with the military defeat of the LTTE in year 2009. A country, which was battered by an internal conflict for nearly three decades, is on the path towards achieving sustainable development in many fields. Giving credit to the development that has taken place during the last five years, it is very much evident that Sri Lanka has the potential to further expand along various paths.

It is a well-known fact that the main reason for the LTTE to emerge as one of the most formidable terrorist outfits in the world is their capability to use the seas around Sri Lanka and even the international seas. With the end of the conflict in year 2009, seas around the country became free from visible enemies. But it does not in any way mean the seas are free from maritime security threats and challenges.

Many activities related to the seas around the country began to emerge at a considerable pace taking advantage of the prevailing maritime security situation. Tourism and fishing remain in the forefront and they have shown potential for further development. Even though many generally tend to view fishing as another activity that is taking place in the seas around the country, if its activities are not carefully monitored and regulated, it alone could present a number of challenges to the maritime security component in the short run as well as in the long run. In this context, it seems that the activities of the local fishing fleet need to be analysed carefully in order to understand the challenges they could present.

Importance of Maritime Security:

The terms 'maritime security' and 'maritime safety' have been used in conjunctions on most occasions but when defined, they provide two different meanings in the maritime context. The difference of safety and security has to be identified in this context. Feldt, Roell & Thiele (2013) highlight the significance of this as; 'Maritime Safety' is 'the combination of preventive and responsive measures intended to protect the maritime domain against, and limit the effect of, accidental or natural danger, harm, and damage to environment, risks or loss.'

The shipping community has defined 'maritime security' according to the industry operator's viewpoint as 'Focus on the marine transport system and relates to the safe arrival of cargo to its destination without interference or being subjected to criminal activity' (Klein 2011). The lack of a generally agreed definition is noted by, amongst others, Sam Bateman in his recent exploration of the 'tame' and 'wicked' problems of maritime security (Bateman 2011). Despite these differences observed in defining 'maritime security', Bateman (2011) highlights that, 'The one maritime security concern that appears to be a common concern of regional countries is the security and safety of shipping and seaborne trade' [emphasis added].

Till (1990) highlights that 'this is a far from easy task' as the phrase 'maritime security' comprehends so much. The developments with regard to defining the term have evolved into a broader conceptual debate on security. It thus might be viewed simply as another dimension of security, although the security literature does not reflect that: perhaps surprisingly, maritime security is never identified as an independent issue. (Tow, Thakur and 2011). The existing literature on maritime security tends to focus on the characteristics of the sea and its varied uses, and the threats to those uses (Cozens & Mossop 2005). The non-traditional view of maritime security differs from its focus of strategic standpoint. In this context, Till (2004) makes his analysis within the organizing framework of "good order at sea," whereby the sea as a resource, as a medium for trade and information exchange, and as an environment, faces various threats and threats to the good order on which their continued contribution to human development depends.'

Oceans are also sighted as areas where less regulatory oversight is taking place. This in turn offers an open invitation to non-state actors to use the oceans for illegal activities. Ranging from smuggling of arms to launching an attack on another country, the maritime domain is used for an array of illegal activities. The Mumbai attack shows how vulnerable a country can be due to the unavailability of most sophisticated maritime surveillance and enforcement mechanisms. The utilization of the fishing vessels by terrorists in the above attack points out the importance of paying close supervision on the fishing activities.

Nature of Local Fishing Industry:

Historic evidence proves that Sri Lanka was one of the earliest countries in South Asia to consume fish. Excavations in the Neolithic

Lena Cave in Kuruwita and the Udupiyan Galge Cave in Rathnapura have exposed fish remains indicating that the inhabitants had been consuming fish for the last 40,000 years or more (Weliange 2010). Perhaps the earliest evidence of fishing in South Asia, as evident from the findings of beads and shells, comes from the Batadomba Lena caves in Sri Lanka dated circa 28,500 - 16,000 BP (Ray 2003).

With the dawn of peace and relaxation of certain restrictions imposed on fishing, especially the northern fishermen commenced to venture out to sea comparatively on a much larger scale than prior to 2009. According to the details provided by the Ministry of Fisheries and Aquatic Resources Development (MFARD), around 262,530 active fishermen are engaged in both marine and inland fisheries.

Over 986,410 members of their households depend on the income gained through fishing and related activities. In order to achieve this growth, about 30,470 of motorized boats and 22,800 of non-motorized boats have been operated in marine fishing. Out of the motorized boats, around 4,080 boats have been operated in offshore fishing.

Analyzing the fish production forecast expected to be achieved in year 2014, 2015 and 2016, Table 1 indicates that Sri Lanka is expecting a higher degree of income from both marine as well as inland and aquaculture fish production.

Table 1. Fish production forecast (Mt)

Indicator	2013	2014	2015	2016
Marine	590,900	625,260	674,150	740,850
Inland & Agriculture	94,800	105,400	118,450	137,510
Total	685,700	730,660	792,600	878,360

Source: Statistics Unit of MFARD

The development that has taken place in the fisheries sector in the recent past is likely to continue to gain the full potential of the fisheries resources that lie in the Exclusive Economic Zone (EEZ). Achieving this objective will require expansion of the fishing fleet to a sizable extent. In addition to the inland-operated fishing vessels, the attention will focus on to the fishing vessels that operate quite closer to the shores and those capable of venturing into the EEZ as well as to the high seas. MFARD statistics on the number of available inland fishing craft indicate a total of 9,130 craft in year 2013. This implies the importance of establishing an effective regulatory mechanism to monitor inland activities.

Presently there are 18 fisheries harbours with 10 being proposed and one under construction according to the detail provided by the Ceylon Fisheries Harbours Cooperation. Once the proposed and under construction harbours are fully operational there will be 29 fisheries harbours around the country to cater to the requirements of local fishermen.

Local Fishermen & Maritime Security Challenges:

With over a 1700km long coastline, a 21,000km² Territorial Sea area, a 517,000km² of the EEZ and an expected Extended EEZ (EEEEZ) of nearly 1,400,000km², Sri Lanka has an enormous challenge in monitoring the activities on the shore, out in the EEZ and the EEEEEZ. The challenge is primarily due to the vastness of the ocean space. No Navy or Coast Guard is capable of monitoring this mammoth ocean mass hundred percent. The inability to completely monitor one's maritime domain can be effectively exploited by various actors to gain advantage for numerous illegal maritime activities.

Prior to year 2009, there were a number of restrictions in place to monitor local fishermen's activities primarily due to the maritime threat posed by the LTTE Sea Tigers. Out of all such mechanisms in place, the establishment of FMPs to keep a record of fishing activities was a major deterrent factor to prevent the LTTE's exploitation of local fishermen/their craft to launch attacks and also to ensure the fishermen were not involved in such activities. The Navy manned over 170 such points in identified locations around the country during the conflict period and they assisted in countering a large number of enemy attacks.

The other main restrictions imposed were on areas such as time duration for fishing, fishing areas (High Security Zones) and engine horse power limitations. Relaxation of these restrictions came into force gradually following the LTTE's military defeat in year 2009 and it benefitted the fishermen. Taking advantage of the situation, local fishermen commenced fishing on a large scale. Various incidents of illegal activities taking place with the involvement of local fishermen surfaced gradually after 2009. Areas such as human smuggling, drug trafficking, over exploitation of marine resources, Illegal Unreported and Unregulated (IUU) fishing are some of the main illegal activities the local fishermen have been found to be directly or indirectly engaged at present.

Human smuggling emerged as a major security challenge where local fishermen were found directly involved in providing the sea passage from Sri Lankan shores to Australia. Details pertaining to the number of fishing boats arrested/evaded and the number of persons arrested are shown in Table 3.

Table 3. Human smuggling details

Year	Arrested boats	Evaded boats	Arrested personnel
2009	7	0	176
2010	0	4	0
2011	3	1	70
2012	62	123	3008
2013	16	14	1019

Source: Directorate of Naval Operations

Analysing the data pertaining to year 2012 alone, one could easily argue that the situation was out of control of the authorities. All the boats involved in human smuggling through the sea routes were found to be fishermen with links to the master smugglers. The fishermen's involvement in ferrying a large number of illegal persons to Australia had a number of repercussions on many sensitive areas. Despite these developments, the SLN was capable of arresting the situation to a greater extent. No direct boat arrivals have been reported from Sri Lanka to Australia since October 2013 to date.

Drug trafficking to Sri Lanka is being done through two primary ways; via sea and air. The discovery of a number of drug smuggling attempts through the airport and the Colombo harbour has been reported in the recent past. The Sri Lankan experience has shown that fishing vessels are being used by drug traffickers for smuggling across the Palk Bay. In year 2013, the SLN seized over 245 kg of cannabis and in year 2014 over 75kg of Kerala cannabis. Due to the presence of a large number of Indian trawlers and local fishing vessels, surveillance of each and every vessel becomes extremely difficult without timely intelligence. A large number of Kerala cannabis is smuggled through a well-organized fishing network across the Palk Strait. The majority of cannabis recoveries has been done in the northern and north western shore areas and they have been smuggled by a well knitted fleet of fishing vessels.

The fisheries resources in Sri Lankan waters are untapped to a greater extent. Yet, illegal and substandard fishing practices continue to take place in making the fisheries resources unsustainable and continue to damage the much important marine environment which

takes years to reverse back to normal. The use of illegal fishing methods such as dynamiting, bottom trawling, fishing during prohibited periods and illegal nets is some of the activities which directly contribute to this. Over fishing in certain areas too has a direct impact on the sustainability of the industry.

IUU fishing is yet another area Sri Lanka needs to pay close attention. Sri Lanka was issued with a 'yellow card' by the European Union (EU) as Sri Lankan fishermen were caught in engaged IUU over 11 cases in 2012. However, the situation improved to a greater extent after implementing the key inspection procedures and awareness programmes. The EU is Sri Lanka's dominant trade partner for fish and fisheries product exports, bringing in an income of about 22 billion annually. Losing EU market due to IUU fishing will have a significant impact on the economy.

A close monitoring mechanism is essential in terms of fisheries affairs that take place across the Palk Strait, considering the strategic and tactical importance to both India and Sri Lanka.

Recommendations:

Considering the above maritime security challenges posed to the Sri Lankan fishermen, following recommendations are made to avoid the situation worsening:

- Establishment of regulatory mechanism to monitor fisheries activities (inland and marine).
- Strict compliance with existing legal framework and introduction of new laws/regulations pertaining to fisheries.
- Immediate re-commencement of FMP duties (with minimum disturbance to fishermen).
- Re-evaluation of conditions which led to the relaxation of fishing restrictions.
- Establishment of a comprehensive fisheries data base.
- Installation of Vessel Identification Systems (VIS) on board fishing vessels of all types.
- Establishment of a Fishing Community Based Monitoring Network (FCBMN) to monitor activities in other coastal areas.

Conclusion:

Even though our seas are free from a visible enemy at present, the vastness of the ocean space provides ample of opportunities for various actors to use the maritime domain to conduct illegal activities. Having the ability to move across a huge ocean area, Sri Lanka

fishermen are found to be an important element in the maritime security affairs of Sri Lanka. As the maritime domain is found to be a crucial factor in achieving future development objectives, the importance of those who frequent the seas around the country is found to be high. The necessity to identify key areas where local fishermen are involved in illegal activities endangering the maritime security and national security therefore, remains as a vital area for immediate attention.

REFERENCES

1. Bateman S (2011), 'Solving the Wicked Problems of Maritime Security.' *Contemporary South Asia*. Vol. 33, No.1 April.
2. Cozens P & Mossop J Eds (2005), 'Capacity Building for Maritime Security Cooperation in the Asia-Pacific'. Center for Strategic Studies: New Zealand, Victoria University of Wellington.
3. Feldt L, Roell P & Thiele RD (2013), 'Maritime Security: Perspectives for a Comprehensive Approach'.
4. Klein N (2011), 'Maritime Security and the Law of the Sea'. Oxford monographs in International Law, Oxford, New York: Oxford University Press.
5. Till G (1990), 'Developments in Maritime Security'.
6. Tow, Thakur & Hyun (2011), 'Asia's Emerging Regional Order'.
7. Weliange WS (2010), 'Fishing Practices in Prehistoric Sri Lanka'.

SOS: AN INTERVENTION TO REDUCE THE CONSUMPTION OF ADDED SUGAR, OIL AND SALT IN THE SRI LANKA NAVY

Surgeon Rear Admiral NELW Jayasekara, VSV, USP,
MBBS (SL), MSc (Med Admin), MCMA, MBA, MIN (SL), MD (Med Admin)

“One in every five persons has been affected from at least one of the Non-Communicable Diseases (NCDs) according to WHO reports.”

Added sugar oil and salt have increasingly become an integral component of modern food. This trend is particularly evident in the fast food industry, where taste has become heavily dependent upon the addition of these ingredients. However, there is hard evidence to suggest that excessive consumption of these ingredients leads to metabolic syndrome, a chronic non-communicable disease group consisting of obesity, diabetes mellitus, hypertension and hypercholesterolaemia. The currently observed high incidence of ischaemic heart disease and stroke in Sri Lanka is attributable to this syndrome. Currently at least one in every five persons has been affected from at least one of the Non Communicable Diseases (NCDs) according to WHO reports. Health promotion and prevention programmes with the ultimate objective of reducing these additives have been recognized as the effective way of addressing the associated mortality and morbidity from the disease group. The 55,000 strong SLN has a captive population of approximately 76% who are ‘living in’ and consequently consuming food prepared within the organization unless they are on leave. Hence, the general objective of the SOS programme initiated within the SLN is to reduce the high levels observed in the baseline survey conducted in 2007 to the recommended target levels as shown in the table below.

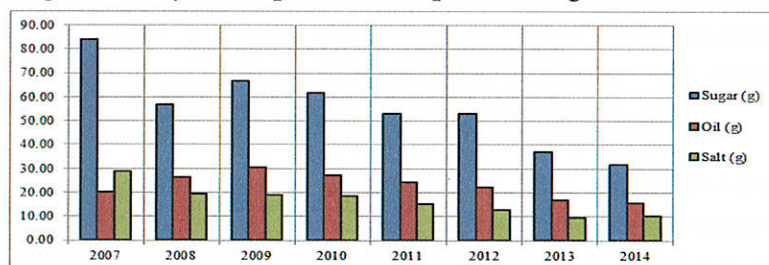
Table: Daily Per Capita Consumption of Sugar, Oil & Salt

Year	Quarter	Sugar (g)	Oil (g)	Salt (g)
2007	Base Line	84.1	20.1	28.7
2008	1 st	63.31	24.78	19.18
	2 nd	65.51	26.41	19.66
	3 rd	71.02	28.5	19.42
	4 th	27	26	19.06
2009	1 st	61.61	26.35	19.29
	2 nd	66.32	30.08	22.29
	3 rd	70.38	34.3	16.72
	4 th	68.62	30.89	17.91
2010	1 st	62.66	28.56	17.21
	2 nd	65.02	30.65	20.56
	3 rd	61.4	25.48	19.28
	4 th	58.58	24.9	16.38
2011	1 st	52.8	23.09	16.24
	2 nd	55	25.47	15.85
	3 rd	54.44	25.15	13.75
	4 th	50.08	23.63	14.8
2012	1 st	54.21	23.22	13.54
	2 nd	58.27	23.13	12.76
	3 rd	52.25	21.25	12.45
	4 th	47.87	21.12	11.68
2013	1 st	43.51	19.86	10.97
	2 nd	38.06	16.8	8.71
	3 rd	33.8	15.96	9.04
	4 th	32.47	15.39	8.16
2014	1 st	32.61	15.87	8.41
	2 nd	31.61	14.52	8.34
Target		30	15	5

The SOS reduction programme has been operational in all naval areas consisting of the West, East, South, North, North Central and North West since the first quarter of 2008 and since 2013 in the newly established South Eastern area to date by way of a threefold strategy. The first was gradual reduction in the quantity of added sugar oil and salt at the point of supply. The second was health education targeting the consumers on the long term benefits. The third was again education, targeting supply personnel who were directly involved in the procurement of dry rations and the preparation of food which included alternative culinary practices to enhance taste. The SLN's Public Health Inspectors under the supervision of the Visiting Nutritionist were utilized to conduct and supervise the programme from the point of supply to preparation of food and monitoring feedback from consumers.

The daily per capita consumption of added sugar, oil and salt for each quarter is shown in the table above. Even though there has not been a progressive steady decline, an overall decline in the consumption of these substances has been observed as reflected in the figure below. However, in the case of added oil, the per capita consumption rose higher than the baseline survey, but declined marginally as at present.

Figure : Daily Per Capita Consumption of Sugar, Oil & Salt



Progress in respect of added salt has been very satisfactory with a reduction in per capita consumption of approximately 71%. Cessation of adding salt to rice when cooked was a major contributory factor to the reduction. Similarly a reduction of approximately 62% has been achieved in respect of added sugar. Improving the quality of dessert with natural fruit was a major contributor in this regard. However, reduction in added oil has been only 25%, after displaying a paradoxical increase in the mid quarters. A new policy with popular food preparations being added to a predetermined menu contributed to this increase. In addition, numerous complaints of poor taste also impeded progress. Hence, further reduction will require intensification of all three strategies as well more focused strategies. It is also relevant to state that the Ministry of Health also commenced a similar programme termed "Super 8" in 2012, 05 years after the SLN's programme. The eight health targets conveyed in the Super 8 includes messages about sugar, salt, fruit and vegetables, trans-fat, alcohol, physical exercises, blood pressure and BMI.

ඉබෝලා සහ ලෝක සෞඛ්‍යය

වෛද්‍ය කොමාණ්ඩර් චිච්චිඅයි සමරවික්‍රම, පමන

“ඉබෝලා රෝගී
තත්වය ගැන
නිසිලෙස දැනුවත්වීම
සහ ලෝක සෞඛ්‍ය
සංවිධානයේ උපදෙස්
අනුව ක්‍රියා කිරීම
එම වසංගතයෙන්
අපරිත, රටරත,
ලොවටත් ඕදිලට
හැකි එකම සහ
සුදුසුම මාර්ගය වේ.”

ටිබෙටයේ උණෙන් සැමදා බැට කන ලාංකිකයන් හට බටහිර අප්‍රිකාව ගිලගන්නා ඉබෝලා වසංගතය ගැන ආරංචිය හිතට දැනෙන්නා බව නිසැකය. ඒ මක්නිසාද යත් සමක නිවර්තන දේශගුණ කලාපයක් තුළ එය ව්‍යාප්ත වීම අපගේ සිත් තුළ යම් අනාරක්ෂිත හැඟීමක් ඇතිකිරීමය.

ඉබෝලා වෛරස් රෝගය හෙවත් ඉබෝලා රක්තපාත උණ රෝගීන්ගේ දරුණු 90% දක්වා මාරාන්තික රෝග තත්වයක් ඇති කළ හැකි මෙම තත්වයකි. මිනිසුන්ට සහ වානරයන්ට වැළඳෙන එම රෝගය මුලින්ම 1976 දී වසංගත තත්වයක් ලෙස කොන්ගෝ ජනරජයේ සහ සුඩානයේ ග්‍රාමීය ප්‍රදේශ දෙකක එකවර වාර්තා විය.

ඉබෝලා රෝගකාරක වෛරසය පළතුරු වවුලන් තුළ සංචිතයක් ලෙස පවතින බවට දැනට ඇති දත්ත අනුව පෙනී යයි.

වර්තමාන ඉබෝලා රෝග වසංගතය ඇති බටහිර අප්‍රිකානු රටවල මිනිසුන්ගෙන් මිනිසුන්ට රෝගය ව්‍යාප්ත වී ඇති අතර, ආසාදිතයන්ගේ අසුචි, මුත්‍රා, බේටය සහ ශුක්‍රාණු ස්‍රාවය, තුවාලවූ සම හෝ ශල්‍යකර්ම පටල රෝග වාහක මාධ්‍ය ලෙස පෙනී යයි.

රෝගීන් පරිහරණය කළ ඇඳ ඇතිරිලි, ඇඳුම් හා ශල්‍ය උපකරණ මගින්ද වෛරසය නිරෝගී අයෙකුට කෙලින්ම ආසාදනය විය හැක.

දැනුවත් 100කට අධික සෞඛ්‍ය සේවක සංඛ්‍යාවක් ඉබෝලා ආසාදිතයන් බවට පත්වී ඇත්තේ ආරක්ෂිත උපක්‍රම අනුගමනය නොකර නිසාවෙනි. එම නිසා සෞඛ්‍ය සේවා බිම් මට්ටමේ සිට දැනුවත් වීම නිරෝධායන ක්‍රම අනුගමනය මෙම වසංගතය පාලනයට ඉතා වැදගත්ය.

ලෝක සෞඛ්‍ය සංවිධානයේ නිර්දේශ අනුව ඉබෝලා වසංගත රෝග තත්වය ඒ සඳහා විශේෂ පුහුණුව, උපකරණ හා ප්‍රතිකාර මාර්ග වෛද්‍ය මධ්‍යස්ථානයක් වෙත අනිවාර්යයෙන්ම යොමු කළ යුතුය. මියගිය රෝගීන් භූමිදාන කිරීමද විශේෂ පුහුණුව ලත් පුද්ගලයන් විසින් සිදුකළ යුතු අතර, මෙම රෝගී තත්වයෙන් සුවය ලැබූ පුද්ගලයින්ගේ ශ්‍රාව තුළ වෛරසය දිගු කලක් නොනැසී පවතී. නිදසුනක් ලෙස පැලෑටි පිරිමි රෝගීන්ගේ ශුක්‍ර තරලය සති 07ක් පමණ ආසාදිත වන බවට ඔවුන් අනාරක්ෂිත ලිංගික හැසිරීම් මගින් සහකරුවන්ට රෝගය වැළඳී හැකියාව පවතී.

ඉබෝලා වසංගතය ආසාදිත සතුන් මගින් සහ ආසාදිත

පුද්ගලයන්ගෙන් නිරෝගී පුද්ගලයින්ට පැතිර යා හැකිය.

මෙම තත්වය ඉබෝලා වසංගතය ලෝකය පුරා දරුණු සෞඛ්‍ය තර්ජනයක්ව හිස එසවීමේ වැඩි අවධානයක් ඇති ලෝකය විශ්ව ගම්මාන සංකල්පයෙන් කුඩා වී ඇත.

එම නිසා ලෝකය පුරා රෝග වාහකයන් ලෙස පාලනය කිරීමට අපහසු ලෙස පැතිර යාමේ අවදානමක් ඇත.

සෞඛ්‍ය සේවකයන් ආසාදිත වූවන්ගේ පවුල් වල සාමාජිකයින් සහ රෝගීන්ගේ අවමංගල්‍ය කටයුතු වලට සම්බන්ධ වූවන් වැඩි අවදානම් තත්වයට මුහුණ පා ඇති පිරිස ලෙස සැලකේ. ලෝකය පුරා රෝග ලක්ෂණ අප්‍රකට රෝග වාහකයන් මගින් මේ නිහඬ මාරයා පැතිර යා හැක.

උණ රෝගී තත්වය, දැඩි දුර්වලභාවය, මාංශ පේෂි වල වේදනාව, හිසරදය, උගුරේ ආසාදනය සහ වමනය, පාවනය, සමේ ලප ඇතිවීම, චකුගඩු අක්‍රීය වීම, අක්මාව අඩපණ වීම සහ ඇතැම් අවස්ථා වල ඇතිවිය හැකි බාහිර සහ අභ්‍යන්තර රුධිර ගලනය ඉබෝලා රෝග තත්වයේ රෝග ලක්ෂණ වේ.

මෙම රෝග ලක්ෂණ බොහෝ දුරට ඩෙංගු උණ රෝගයට සහ රක්තපාත රෝගී තත්වයට සමාන වේ. රෝගයේ මූලික අවස්ථාවේදීම නියමිත වෛද්‍ය ප්‍රතිකාර සඳහා යොමුවීම අනිවාර්ය වන අතර, එය රෝගියාගේ සුවවීමේ හැකියාවට මහත් පිටුවහලක් වේ.

දරුණු රෝගී තත්වයෙන් පෙළෙන රෝගීන් දැඩිසත්කාර ඒකකයේ ප්‍රතිකාර සඳහා යොමු කරන අතර, සාමාන්‍යයෙන් ඉබෝලා වසංගත රෝග තත්වය පාලනය සඳහා රෝගීන් වෙන්කර ප්‍රතිකාර කිරීමද (නිරෝධායනය) සහ රෝගීන් පිළිබඳව ඉතා වැදගත් වේ.

ශ්‍රී ලාංකික ආරක්ෂක හමුදා සාමාජිකයින් දැනට අප්‍රිකානු රටවල සේවයේ යෙදී සිටීම හේතුවෙන් ඉබෝලා වෛරසය යුරෝපයට ඉන්දියාවට ගොඩවැදුන ආකාරයටම ශ්‍රී ලංකාවටද ගොඩ වැදීමේ අවදානමක් ඇති බවට අප තුල සැකයක් ඇති වීම ස්වභාවිකය. සෑම රෝගීන් දහ දෙනෙකුගෙන් නමයකටම මරු කැඳවන මෙය මරණ අනුපාතය 5% වඩා අඩු ඩෙංගු වසංගතයට වඩා අතිශය ආක්‍රමණශීලී සහ කුරිරු රෝගී තත්වයක් බව තොරහසකි.

ඉබෝලා වසංගතය මැඩලීමට රෝගයේ ස්වභාවය පැතිරෙන අයුරු, පැතිරීම පාලනය කරන අයුරු, රටේ සෞඛ්‍ය බලධාරීන්ගේ නිර්දේශය මත අනුගමනය කළ යුතුමය.

රෝගීන් නිශ්චිත ප්‍රතිකාර සඳහා යොමු කිරීමට කටයුතු කිරීම මගින් එය ලෝක සෞඛ්‍යයට බලපාන තත්වයට පත්වීම පාලනය කළ හැකිය. ලෝක සෞඛ්‍ය සංවිධානයේ නිර්දේශය වන්නේ රෝගීන්ට නිවෙස්

තුළ ප්‍රතිකාර සිදු නොකර විශේෂිත වෛද්‍ය මධ්‍යස්ථාන තුළදී පමණක් ප්‍රතිකාර සිදු කිරීම වේ. රෝගීන් සහ ආසාදිත ද්‍රව්‍ය නිරෝගී පුද්ගලයන් සමග ස්පර්ශය නතර කළ යුතුමය.

ලෝක සෞඛ්‍ය සංවිධානය මෙම ගෝලීය සෞඛ්‍ය තත්ත්වයට මුහුණ දීමට රෝග ව්‍යාප්තිය පිළිබඳව දත්ත රැස් කිරීම, තොරතුරු හුවමාරු කිරීම, තාක්ෂණික පහසුකම් ලබාදීම, වෛද්‍ය රසායනික පරීක්ෂණ දිරි ගැන්වීම, රෝග පැතිරීම වැළැක්වීම, ප්‍රතිකාර ක්‍රම, වෛද්‍ය/සෞඛ්‍ය විශේෂ සහාය ලබාදීම, සන්නිවේදනය, රෝගීන් දැනුවත් කිරීම, ආරක්ෂිත සෞඛ්‍ය ක්‍රමවේද අනුගමනය, ප්‍රාදේශීය මෙන්ම ගෝලීය සෞඛ්‍ය ජාලය සවිස්තරාත්මකව ගැන්වීම සිදු කරනු ලබයි.

ඉබෝලා වසංගත තත්ත්වයක් ලෙස ව්‍යාප්තවීම පාලනය කිරීමට ලෝක සෞඛ්‍ය සංවිධානය හමුවේ ඇති අභියෝගයකි. මේ වන විට ඉබෝලා රෝගීන් 17,942ක් පමණ වාර්තා වන අතර, මරණ සංඛ්‍යාව 6,388 කි (දෙසැම්බර් 2014). මෙම රෝගී තත්ත්වය වේගයෙන් පැතිරෙමින් කලාප තුළ මරණ අනුපාතය 71% පමණ වන අතර, රෝහල්ගත රෝගීන් 61% මරණයට පත්වේ. ලෝක සෞඛ්‍ය සංවිධානයට දෙසැම්බර් 05 වන විට ඇමරිකානු ඩොලර් මිලියන 2,187 ප්‍රතිපාදන ඉබෝලා වසංගතය පිටු දැකීමට වෙන්වී ඇත.

වසංගතය තදින් පැතිරෙන ප්‍රදේශ තුළ පැය 24 පුරාම ක්‍රියාත්මක වෛද්‍ය පරීක්ෂණාගාර පහසුකම්, රෝගීන් වෙන් කර ප්‍රතිකාර කිරීම, දැඩි සත්කාර ඇඳුන් පහසුකම්, රෝග වාහකයන් සොයාගැනීම, අලුතින් ආසාදිත පුද්ගලයන් හඳුනාගැනීම වැනි උපාය මාර්ග මෙම වසංගත තත්ත්වය පාලනය කිරීමට ලෝක සෞඛ්‍ය සංවිධානයේ නිර්දේශය වේ.

මෙම වසංගත රෝගී තත්ත්වය ගැන නිසිලෙස දැනුවත්වීම ලෝක සෞඛ්‍ය සංවිධානයේ උපදෙස් අනුව ක්‍රියා කිරීම මෙම ඉබෝලා වසංගතයෙන් අපටත්, රටටත්, ලොවටත් මිදීමට හැකි එකම සහ ප්‍රායෝගික මාර්ගය වේ.

E-GOVERNANCE IN SRI LANKA

Lieutenant Commander (ND) RDIC Gunawardane

Introduction:

"ICT can impact lives provided there is a big enough vision behind it and genuine intentions to realize that vision."

Governance deals with processes and systems by which an organization or society operates. On most occasions, a government manages these processes and systems. Governance is also defined as the system of values, policies and institutions by which a society organizes collective decision-making and action related to political, economic and socio-cultural and environmental affairs through the interaction of the state, civil society and the private sector. Governance comprises the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and organization.

The complete transformation of the processes of governance using the implementations of information and communication technology is called the E-Governance. It aims at bringing in faster and transparent service delivery, accountability, information sharing and people participation in the decision making and government processes and systems. E-governance brings Smart, Moral, Accountable, Responsive and Transparent (SMART) governance enabling followings:

- People's participation
- Accountability and efficiency
- Transparency
- User friendly government processes
- Removal of hierarchical barriers and red tape
- Better service delivery.

Preparing an E-governance policy for Sri Lanka commenced in year 2004 and it was completed in year 2009. Further, Sri Lanka is the lead¹ country in the South Asian region for implementing the initiatives and the Maldives has become the second in the region.

¹ United Nations e-Government Survey 2014, Chapter 1, page 28

Defining 'Governance':

The word "Government" is very familiar to all of us and it can simply be stated as a system by which a state or community is governed. Governance is the act of governing and is not a new concept and it is as old as the human civilization. In a country domain, the governing of its decision making processes and related systems are typically administered by the government. The World Bank defines governance as "the way the power is exercised through a country's economic, political, and social institutions." The UNDP explanation states that it is the exercise of economic, political, and administrative authority to manage a country's affairs at all levels. It comprises of mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations, and mediate their differences.

The term "good governance" is always heard when there is a discussion about governance. The Organization for Economic Cooperation and Development (OECD) says that it "encompasses the role of public authorities in establishing the environment in which economic operators function and in determining the distribution of benefits as well as the relationship between the ruler and the ruled." In simple terms, it calls for the elimination of "bad" practices in the system of governance. Especially, in an evolving knowledge-based economy, the requirement for the practice of good governance is now being demanded more than ever before. This urges for improved level of government services and throws a series of questions of significant importance before us. These include; how a country's government can become more accessible? how it can be efficiently responsive to citizen requirements? what are the mechanisms that can be adopted to minimize corruption? how can the government be a catalyst of economic growth by enabling the use of advanced ICT and other technologies in realizing the benefits in the areas of agriculture, health, education, banking? etc. Such questions pinpoint to us that the conventional governance is far from achieving good governance.

What is e-Governance?

The above issues inherent to the traditional approach to governance set the stage to understand what the e-governance is? E-Governance stands for electronic-governance and the word "electronic" denotes the use of technology in the system of governance. If it is made more explanatory, e-Governance is the application of Information and Communication Technology (ICT) for assisting the government for efficient and meaningful delivery of government services. It essentially interrelates and integrates various stand-alone systems and services of different stake holders within a country, including its citizens.

Here the term ICT is used as an umbrella term that includes any communication device or application, which includes but not limited to radio, television, cellular phones, computer and all types of communication networks, satellite systems, and the related hardware and software etc. as well as the various services and applications associated with them, inter alia, use of Credit Cards, Automatic Teller Machine operation (ATM), video conferencing and distance learning.

The UNESCO definition of e-Governance is the public sector's use of information and communication technologies with the aim of improving information and service delivery, encouraging citizen participation in the decision-making process and making government more accountable, transparent and effective. e-Governance involves new styles of leadership, new ways of debating and deciding policy and investment, new ways of accessing education, new ways of listening to citizens and new ways of organizing and delivering information and services.

e-Governance is generally considered as a wider concept than e-Government since it can bring about a change in the way citizens relate to governments and to each other. e-Governance can bring forth new concepts of citizenship, both in terms of citizen needs and responsibilities. Its objective is to engage, enable and empower the citizen. Even with such a clear elucidation, one should not misunderstand e-Governance as something that is to be achieved by the Public Sector alone bearing the whole responsibility of transformation. On the

other hand, e-Government is about modernizing existing government business processes through ICTs to enable seamless exchange of information across all building blocks of the government in facilitating its citizens the secure access to government information and services.

ICT as the Transformation Tool:

In this era of knowledge economy, the world has recognized ICT as the transformation tool in catalysing growth based economic activities in an efficient governance process. For this reason, the countries make heavy investments in incorporating and integrating ICT with their development initiatives for securing its true benefit realization to society.

Further, it is equally important to understand why such a heavy use of ICT is important for a country. The answer is straight forward. Firstly, it allows greater public access to information and therefore facilitates more accessible government services. Secondly, it promotes more efficient and effective government. Finally, it makes sure that the government is more accountable to citizens, businesses and other stakeholders thus putting to practice a major component within the framework of e-Governance. Moreover, importantly, e-Government reflects the willingness and the ability of the public sector to deploy ICT for improving knowledge and information in serving its citizens.

The World Summit on the Information Society (WSIS) in its Plan of Action document underlines the implementation of e-Government under section C7, titled "ICT applications: benefits in all aspects of life". According to the WSIS, ICT applications can support sustainable development in the fields of public administration, business, education, training, health, employment, environment, agriculture and science within the framework of national e-strategies. It claims that this would include actions within a list of sectors which contain but not limited to e-Government, e-Business, e-Learning, e-Health, e-Science, e-Agriculture etc.

Sri Lankan Context of e-Governance:

The Government of Sri Lanka first recognized the need for the development of ICT through the National Computer

Policy (COMPOL) of 1983. This first attempt was taken by the Natural Resources, Energy and Science Authority of Sri Lanka (NARESA). A committee appointed by the NARESA produced the National Computer Policy.

The acceptance of the COMPOL by the government gave rise to the establishment of the Computer and Information Technology Council of Sri Lanka (CINTEC), which was termed as the Council for Information Technology by a Parliamentary Act No. 10 of 1984.

The Information and Communication Technology Agency of Sri Lanka (ICTA) was established in July 2003 and pursuant to the Information and Communication Technology Act No. 27 of 2003, (ICT Act), the ICTA was identified as the legal successor to the CINTEC and became the apex ICT institution of the Government, presently functioning within the purview of the Presidential Secretariat.

Under the ICT Act No. 27 of 2003, the ICTA was empowered to formulate and implement strategies and programmes in both the Government and the private sector and pursuant to the ICTA prepared programs and strategies on Information and Communication Technology, which are presently embodied in the "e-Sri Lanka Development Project".

The "e-Sri Lanka Development Project", formulated during the period 2002-2005, is aimed at taking the dividends of ICT to all segments of the Sri Lankan society and to further the socio-economic development of the nation. Through the implementation of this multi-donor funded project, an enabling environment is being created where government works in partnership with stakeholders to create the necessary infrastructure, and establish e-Government services.

In October 2004 the Cabinet of Ministers identified the "e-Sri Lanka Development Project" as the National Information Technology Action Plan of the Government, and further strengthened the ICTA's legal mandate in the following manner:

- a. Specific authorization and mandate for the ICTA to implement all the components of the e-Sri Lanka Development Project;
- b. Authorize the ICTA to recommend to the

Cabinet of Ministers the appropriate policy and regulatory framework required for the implementation of the e-Sri Lanka development project and to support ICT development in Sri Lanka;

c. Authorize the ICTA to periodically review the above programme components and make such modifications as may be required from time to time in keeping with the Policy as approved by the government.

Subsequently, the Information and Communications Technology (Amendment) Act, No. 33 of 2008 empowered the ICTA to submit recommendations to the Inter-Ministerial Committee for formulating the National ICT Policy Framework for submission to the Cabinet of Ministers for their approval. This document has been formulated consequent to the above mandates given to the ICTA by the Cabinet in various forms as described above.

The Government of Sri Lanka has developed the following vision for leveraging Information and Communications Technology (ICT) for the development of the government sector:

“To adopt ICT in all its aspects to make government more efficient and effective, improve access to government services and create a more citizen centric government”²

The objective of the e-Government policy in the government sector in using ICT is to achieve overall development within organizations and in delivery of government services. It will assist in benchmarking an organization's activities against the policy, which will enable organizations to identify the areas which need attention and where rectification needs to be carried out. It will also ensure consistency in ICT activities and practices. The policy articulates the minimum requirements expected of government organizations, and government organizations could add on to this and create their own organizational policies and procedures, within the policy framework. The policy is mandatory for providing a unified approach in implementing e-Government services and achieving

² Policy and Procedures for ICT Usage in Government (e-Government Policy of Sri Lanka), page 1.

following³;

- a. Improved efficiency and effectiveness of government organizations in Sri Lanka thereby making each government organization's budget go further,
- b. Ease and accessibility of government information and services for citizens,
- c. Develop ICT competence among government employees,
- d. Manage ICT resources in sustainable manner.

The implementation time frame is three years, commencing from January 2009 and shall be extended from time to time, as determined by the government, with appropriate modifications. All government organizations should adopt the policy and procedures within the assigned time frame. The policies and procedures envisaged under this document will not be static. It will be updated as frequently as required, taking into account changing trends in the environment, in technology, and changes in business processes.

The most relevant legislation for use of ICT in government and establishment of e-Government services is the Electronic Transactions Act No. 19 of 2006. The drafting of Electronic Transactions Legislation was enabled through a joint Cabinet Memorandum of the Prime Minister, the Minister of Trade and Commerce and the Minister of Science and Technology. Consequently, on 22nd September 2004 the Cabinet of Ministers decided that legislation on Electronic Transactions should be prepared through the Legal Draftsman's Department in conjunction with the ICTA. The legislation was prepared by the Legal Draftsman with legal and policy inputs from the ICTA and presented to Parliament on 7th March 2006. The Electronic Transactions Act was brought into operation with effect from 1st October 2007 (vide Gazette Extraordinary No. 1516/25 of 27th September 2007).

As a follow-up to the enactment of the Electronic Transactions Act, Sri Lanka became one of the first three countries in the Asian region (and first country in South Asia) to sign the United Nations Convention on the Use of Electronic Communications in International Contracts

³ Policy and Procedures for ICT Usage in Government (e-Government Policy of Sri Lanka), A3. Objectives, Page 2