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Colombo Development Dialogues 3

REFUGEES, ASYLUM-SEEKERS, AND THE 2030 AGENDA

05 APRIL 2019



IN PARTNERSHIP WITH



**REFUGEES, ASYLUM-SEEKERS
AND THE 2030 AGENDA**

05 APRIL 2019

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Executive Summary

The third edition of the Colombo Development Dialogues focused on **'Refugees, Asylum-seekers and the 2030 Agenda'**. The panel brought together a range of individuals from the government, private sector, development agencies and academia to provide expert interventions on refugees' and asylum-seekers' access to employment and education in Sri Lanka. The panel was complemented by five pre-identified Discussants, who provided additional perspectives and evaluations of the panellists' comments to facilitate further questions and discussions. As such, perspectives on the challenges facing refugee and asylum-seeker communities, the need for a permanent legal framework and interim legal measures, and potential solutions around facilitating greater access to education and employment given existing structures were discussed and debated during the course of the event.

Panellists and Discussants

The panel was moderated by **Dr Nilanjan Sarkar**, Deputy Director, South Asia Centre,
London School of Economics and Political Science

PANELLISTS

Ms Menique Amarasinghe, Head of National Office, The United Nations High Commissioner for Refugees
(UNHCR) in Sri Lanka

Ambassador Ravinatha Aryasinha, Secretary, Ministry of Foreign Affairs

Ms Susan Bird, Senior Regional Livelihoods Officer, The United Nations High Commissioner for Refugees (UNHCR)

Dr Christopher Smith, Freelance Consultant and Senior Research Fellow, Institute of Commonwealth Studies,
London

DISCUSSANTS

Mr Tony Seniwiratne, Senior Advisor, ZOA Sri Lanka

Mr Asan Saleem, Senior Programme Manager, Muslim Aid Sri Lanka Field Office

Mr Prasad De Silva, Assistant Director General, Employers' Federation of Ceylon

Ms Namini Wijedasa, Assistant Editor, The Sunday Times

Ms Chandrika Karunaratna, Senior Technical Specialist – Rule of Law, Access to Justice & Human Rights, UNDP

Key Findings

- Sri Lanka is not a signatory to the 1951 Refugee Convention or its Protocol and there is no legal or policy framework for asylum in the country. Refugees and asylum-seekers fall under immigration law and are seen as illegal visa overstayers. However, the government permits them to stay in Sri Lanka until their asylum claims are determined or, in the case of refugees, until lasting solutions can be found, mainly in the form of third country resettlement.
- However, the resettlement environment is very challenging, particularly in today's geopolitical context. In mid-2018, while there were 20.2 million refugees under UNHCR's mandate globally, only 81,000 resettlement allocations were made, indicating a major gap.
- Refugees and asylum-seekers amount to just over 1,600 in total in Sri Lanka, who stay, on average, for 3-7 years in the country. However, Sri Lanka has structural limitations in accommodating refugees and asylum-seekers, with few systems in place to support individuals once they have received refugee status. Such structural limitations include no formal right to work, no access to bank accounts, no access to accredited technical and vocational training or authentication of existing qualifications obtained from other countries.
- Refugees and asylum-seekers often rely on savings or remittances from abroad to survive. UNHCR provides limited cash assistance monthly to refugees; asylum-seekers do not receive such assistance and rely on donors, faith-based organisations or ad-hoc donations, in the absence of a systematic approach. They are expected to live in cities and pay for rent, food, clothing and their children's needs out of whatever money they possess – most often, they say that they manage on one meal a day.
- UNHCR conducts an annual participatory assessment, which highlights two issues consistently: access to education and access to employment. This was corroborated by a series of focus group discussions, conducted by the Citra Social Innovation Lab in collaboration with UNHCR in 2019, which examined the perceptions of refugees and asylum-seekers around these two issues.
- If refugees and asylum-seekers engage in employment, they run the risk of being exploited and underpaid, given that they are working illegally, or detained, if they are caught. In addition, the mental impact of being unable to work is not negligible – in the absence of being able to engage in productive work, families often struggle financially, creating frustration, feelings of disempowerment, depression and degenerating skills and mindsets. Many often arrive in Sri Lanka with skills and qualifications, but very few go on to practice their previous professions in their host countries, often ending up in (illegal) blue collar work even where refugee status is granted.
- Refugee and asylum-seeker children do not have access to government schools. UNHCR supports primary education for refugee children between the ages of 6-11 and ZOA runs a school for asylum-seeker children, with volunteer teachers from the wider refugee and asylum-seeker community. Children can enrol in private schools that are willing to take them despite a lack of legal status, if they are able to pay fees. While there are donors who are willing to support education, such support is generally sporadic and not systematic.
- Pilot projects, such as the 'Benang Project' in Indonesia and introducing work permits for Rohingyas to join the Malaysian manufacturing sector have served as means of training and integrating refugees into local communities. Such initiatives help refugees to live fulfilling lives while in displacement, where they can work towards a goal instead of staying idle and further hone their skills, and prepare for more long-term self-reliance, while proving beneficial to their host country and economies, creating win-win situations.
- While there is willingness among employers to offer work to refugees and asylum-seekers, sub-contracting people without status may result in compliance issues for companies, particularly if working with international companies and customers, with little recourse for employers should something go wrong.

Recommendations

Access to Employment

- Given that labour is currently being imported to fill gaps in certain sectors in the labour market, refugees and asylum-seekers could be re-skilled or trained to meet labour market needs, supported by UNHCR, thus allowing them to contribute to the economy.
- There needs to be a process to recognise the skills and qualifications that refugees and asylum-seekers already possess, so that such skills could be effectively harnessed. Against the backdrop of labour market shortages, extending employment opportunities to highly qualified refugees should also then become more possible.
- Similar to the Livelihoods Taskforce initiative in Nepal, a platform to track work opportunities and communicate them to refugee communities would be beneficial.
- Private firms could work towards initiating pilot projects in identified niche areas. An example of a pilot project that was discussed at length were work permits for pre-identified sectors in which gaps exist, where refugees are carefully screened and vetted to obtain permits. Such permits would also depend on compliance for renewal and could be withdrawn if abused in any way. This was successfully piloted for Rohingya refugees in Malaysia's manufacturing sector.
- It is vital that initiatives aimed at providing refugees with employment opportunities are coupled with complementary measures, such as improving access to bank accounts, etc., to ensure that the solution is holistic. Primary among these measures will be ensuring a legal framework for refugees and asylum-seekers to be identified and recognised, which is vital for the protection of both workers and employers.
- An increased focus on complementary pathways (outlined in the Global Compact on Refugees) would involve countries identifying gaps in their respective labour markets and facilitating regional labour migration schemes involving refugee communities, thus creating a sense of shared responsibility.

Access to Education

Three approaches to improving access to education for refugee and asylum-seekers were suggested:

- Integration within the traditional school system should be further examined, given that there are around 300 school-going refugee and asylum-seeker children;
- Trying to negotiate with private schools for admission, and exploring the possibility of private afternoon classes, to ensure that educational requirements are met, in the absence of more permanent structures;
- Using Sri Lanka's established networks of religious institutions or Sunday schools as vehicles for education, while serving as a means to integrate children into local communities.

Systems and Structures around Refugee and Asylum-seeker Communities

- Sri Lanka must prepare itself for the possibility of more asylum-seekers entering the country. This should first involve a national discussion on the benefits and costs of accommodating such groups and whether the country is willing to do so.
- Given the refugee crisis in 2014, where there was mass detention and deportation, a formalisation of the cooperation between the government and UNHCR will help to ensure that similar occurrences do not take place in the future.
- The government must invest in a welfare system or structure around refugees and asylum-seekers, as there are currently very few mechanisms to support refugees once they have acquired refugee status.
- There is also a need for greater international collaboration on developing such structures, given its place as

a regional/global issue. Such structures should involve state assistance on education, language skills and employment opportunities.

- The Victim and Witness Protection law currently in operation in Sri Lanka was proposed as a potential tool to respond to challenges, in the absence of a national legal framework; this would involve bringing refugees and asylum-seekers under the broader definition of a 'victim of crime'. Under this law, such groups would have access to psycho-social services and other forms of support. There is also an Assistance and Protection Fund in operation, which receives financial assistance from governments, donor organisations and international organisations.
- There is also a need for a sound and balanced appeal system and a fully functioning state asylum process. For instance, if those with refugee status proceed to work illegally, it should be within the state's right to handle it, provided that such refugees have the right to appeal.

Outreach and Information-sharing

- Given a general lack of understanding around these communities and their challenges, UNHCR, the government and other organisations working with refugees and asylum-seekers should work towards connecting with journalists who will engage with issues constructively and positively, in order to facilitate greater information-sharing and stories on such communities for outreach.
- Given existing information on the skills and previous occupations of refugees and asylum-seekers in Sri Lanka, such data should be matched to labour market needs and gaps, together with the private sector, to identify if there is a basis for advocating access to employment for such groups.
- There is a crucial need to first look at changing mindsets and advocating for a sense of responsibility-sharing across society before taking steps to assist such groups, given prevalent negative stereotyping. The media and civil society have crucial roles to play in this regard.
- Structured and frequent outreach programmes must be conducted for civil society, donors and other stakeholders, who are often unaware of what being a refugee or asylum-seeker means and the problems they face or feel that they should stay away from the issue due to risks.

Challenges facing Refugees and Asylum-seekers in Sri Lanka

Ms Amarasinghe noted that Sri Lanka is not a signatory to the 1951 Refugee Convention or its Protocol, and as such, there is no legal or policy framework for asylum in the country. Upon arrival, refugees and asylum-seekers fall under immigration law and are seen as illegal visa overstayers. However, the government permits them to stay in Sri Lanka until their asylum claims are determined or, in the case of refugees, until lasting solutions can be found, mainly in the form of third country resettlement.

She then highlighted that in the absence of an official mechanism, UNHCR registers asylum-seekers. UNHCR then determines who among those seeking asylum are refugees and seeks to find lasting solutions for them while enabling refugees and asylum-seekers to access certain services and providing them with assistance so they can live relatively normal lives in the interim. However, it was stressed that the resettlement environment is very challenging, particularly in today's geopolitical context; Dr Christopher Smith reiterated that "the rise of Donald Trump and the nature of his political rhetoric" and Brexit have rendered migration a very divisive issue. Ms Amarasinghe noted that in mid-2018, while there were 20.2 million refugees under UNHCR's mandate globally, only 81,000 resettlement allocations were made, indicating a major gap. She also highlighted that refugees and asylum-seekers amount to just over 1,600 in total in Sri Lanka; however, she appealed to the participants to look beyond the numbers and recognise them as individuals that have gone through significant trauma. The Global Compact on Refugees, which was endorsed by the UN General Assembly in December 2018, lays out a framework for all states to share in the responsibility of protecting refugees, including enabling refugees to access services in countries of asylum.

Ambassador Ravinatha Aryasinha posited that while Sri Lanka is not party to the Convention or Protocol, the country respects its international obligations, and has proactively engaged with the issue thus far and tried to remain relevant in the process. Moreover, he agreed that the Global Compact has rendered it easier for Sri Lanka to engage further with the problem, despite being a non-signatory country. He pointed out that many Sri Lankans have been granted refugee status in other countries, and that Sri Lanka, in turn, must be more responsible in dealing with refugees that arrive on its shores.

Dr Smith suggested that while an influx of asylum-seekers and inward migration are currently not major issues for Sri Lanka, they could potentially be in the future, with the post-conflict economy taking off. Most asylum-seekers would come from the South Asian region as job opportunities for foreigners increase, but this would be nowhere close to the numbers the UK has to process on a yearly basis. Nevertheless, he argued that should more asylum-seekers enter the country, Sri Lanka must prepare for it by debating the benefits and costs of accommodating more of such groups and whether or not the country wants it. He stated that Sri Lanka has structural limitations in accommodating refugees and asylum-seekers, primarily the lack of a welfare state, and that interventions by the state will be vital for such groups to survive and prosper. He especially noted that there are currently few systems in place to support refugees once they have received refugee status. Tamil Nadu was cited as a good example of a state that has provided welfare to Sri Lankan Tamil refugees. He also spoke of the need for greater international collaboration on developing structures around such groups, given its place as a global issue.

Ms Amarasinghe stated that UNHCR conducts an annual participatory assessment, which feeds into their programming, and which highlights two issues consistently: access to education and access to employment. In addition, the Citra Social Innovation Lab, in collaboration with UNHCR, conducted focus group discussions with refugees and asylum-seekers residing in Sri Lanka to examine their perceptions around these two issues. She explained that refugees and asylum-seekers stay, on average, from 3-7 years in the country – with the shrinking resettlement environment, this is expected to increase further. These individuals often rely on savings or remittances from abroad to survive, although the focus group discussions revealed regulatory difficulties in accessing transferred funds sometimes. UNHCR provides limited cash assistance monthly to refugees; asylum-seekers do not receive such assistance, and rely on donors, faith-based organisations or ad-hoc donations, in the absence of a systematic approach. She highlighted that both groups are expected to live in cities and pay for rent, food, clothing and their children's needs out of whatever money they possess – most often, they say that they manage on one meal a day.

Ms Amarasinghe also noted that government cooperation on the provision of free access to healthcare to refugees and asylum-seekers, in the same way as nationals, has been very good, and she expressed a wish for such cooperation

to extend to access to employment opportunities and education.

Employment

Ms Amarasinghe raised that if refugees and asylum-seekers engage in employment, they run the risk of being exploited and underpaid, given that they are working illegally, or detained, if they are caught. She noted the mental impact of being unable to work is not negligible – in the absence of being able to engage in productive work, families often struggle financially as they are unable to augment their stipends. This creates frustration, feelings of disempowerment and depression.

She then stated that Sri Lanka's context is such that labour is being imported for certain sectors, to fill gaps in the labour market that could otherwise be potentially filled by qualified refugees and asylum-seekers. Refugees and asylum-seekers could be re-skilled or trained, supported by UNHCR, which would enable them to contribute towards the Sri Lankan economy while becoming more self-reliant. Dr Smith observed that such groups often arrive in Sri Lanka with great potential and skills, and yet, very few go on to practice their previous professions in their host countries, often ending up in blue collar work even where refugee status is granted. He also drew parallels between such gaps in the Sri Lankan labour market and those found in the United Kingdom, which has a long history as a host nation and where migrants have filled niche gaps in the job market.

Ambassador Aryasinha noted that there are bottlenecks in the system and that trying to provide access to employment for asylum-seekers is a challenge the government is currently grappling with. Given such labour shortages, he acknowledged that this may be the time to work with relevant stakeholders to initiate pilot projects to test the waters in identified niche areas and move further thereafter. He suggested that firms should work closely with CSOs to disseminate information on the skills gaps being faced and support integration into labour forces. He expressed that if proven successful, then such measures would become more widespread, once their value is recognised. Upon Dr Sarkar's question as to the feasibility of such pilot projects, the Ambassador stated that the decision on how to move forward will involve many agencies, of which the Ministry of Foreign Affairs is only one.

Education

Ms Amarasinghe explained that refugee and asylum-seeker children do not have access to government schools. UNHCR supports primary education for refugee children between the ages of 6-11 and ZOA runs a school for asylum-seeker children, with volunteer teachers from the wider refugee and asylum-seeker community. Children can enrol in private schools that are willing to take them despite a lack of legal status, if they are able to pay fees. While there are donors who are willing to support education, such support is generally sporadic and not systematic.

Dr Smith supplemented this discussion by stating that all refugees and asylum-seekers must have access to education, despite gender and previous cultural practices, with access to language skills proving key to integration into local communities. Failing to invest in this could lead to such groups remaining on the periphery of society, which could spiral into further issues. He commended Sri Lanka's general track record on education thus far, given its free schooling and high literacy rates, suggesting that the country is in a position to share these benefits more widely. Ms Amarasinghe pointed out that even if language training is provided separately to secondary schoolchildren, there is no substitute for the socialization process that schooling involves.

Ambassador Aryasinha proposed three potential solutions:

1. Integration within the traditional school system. He indicated that this should be feasible, given that there are around 300 school-going children, and therefore, not a large number. However, he noted that if there is an increase in refugees and asylum-seekers in Sri Lanka, there may a possibility of increasing numbers of school-going children, given free education, but accepted that this is a bridge that would have to be crossed to get such children integrated into the system;
2. Trying to negotiate with private schools for admission. He suggested that the government, UNHCR and civil society should examine whether there is scope for afternoon classes, to ensure that their educational requirements are met. While this still involves a separation from traditional system, this would be an interim measure until more permanent structures are put in place.

3. Religious institutions or Sunday schools are often a useful means of integrating children into local communities, and Sri Lanka has an established network of such systems.

Ms Amarasinghe raised that UNHCR has approached the Ministry of Foreign Affairs with a proposal pertaining to children in Negombo, where there are close to 300 refugee and asylum-seeker children. She stated that the proposal will look at afternoon sessions as the most viable solution. The Foreign Ministry will convene a meeting with the Ministry of Education to discuss this further before a concrete plan is developed.

The Ambassador reflected that it is important to understand where Sri Lanka is currently placed, to look at the above options and identify which combinations might work best. He also noted that education might be an easier aspect to make progress on than employment. Extending access to education may be perceived as less threatening, with less trespassing on difficult issues around migration, while appealing to cultural values around the need for enrichment in life through learning. He also stated that education might serve to integrate families more with local communities, such that their value to society as people, rather than as workers, is recognised, allowing for incremental changes in mindsets.

Regional Experience and the Global Convention

Ms Susan Bird presented a case study of an Indonesian fashion entrepreneur, who initiated the 'Benang Project' as a means of training and integrating refugees into the local community, despite Indonesia's laws preventing refugees from working legally. She focused on how such initiatives help refugees live fulfilling lives while in displacement, where they can work towards a goal, instead of staying idle, and further hone their skills. Such projects also prepare such groups for more long-term self-reliance, as they can take these skills with them in the future, even if moving along to a third country. Moreover, such projects connect refugees to opportunities that are mutually beneficial to their host country and economies, creating win-win situations.

Ms Bird explained that UNHCR has been conducting more outreach in the region, and has opened up space for NGOs, communities and the private sector to brainstorm how different sectors can contribute. She illustrated a few other regional experiences that have shown promise thus far, such as:

- A Livelihoods Taskforce in Nepal, which would track work opportunities and communicate them to refugee communities. The government of Nepal has shown significant interest in this initiative.
- Work permits in the manufacturing sector for Rohingyas in Malaysia, where refugees are carefully screened and vetted prior to permits being granted. This is a pilot project that has proven successful, with UNHCR and the Malaysian government hoping to expand it. Ms Bird reiterated that this is a great example of a situation in which refugees are not seen as taking jobs away from local populations, but are able to contribute to their host societies, while helping their families.

She pointed out that Sri Lanka's context, however, is similar to that of many other countries in Asia, where several structural limitations exist:

1. No formal right to work, barring refugees and asylum-seekers from holding regular jobs;
2. No access to bank accounts. This has proven problematic in countries such as in India, even among those with long-term visas, as this inhibits their ability to receive a salary;
3. No access to accredited technical or vocational training. While access to informal technical training is useful, access to formal training with certification will create a bigger impact among these groups, particularly when moving on to a third country where such documents may prove important;
4. People who already hold higher qualifications often cannot authenticate those qualifications in their host countries.

Ms Bird reiterated Ms Amarasinghe's observation that further dependence on third country resettlement should be increasingly avoided, given resettlement numbers shrinking globally. She posited that Sri Lanka is well-placed to explore interim solutions and do its part to help refugee and asylum-seeker communities, given its relatively small refugee population. She suggested two alternative solutions: firstly, the Global Compact for Refugees, which Sri Lanka is a signatory to, is a foundational document that would allow Sri Lanka to proactively take steps to create win-win situations, similar to the Benang project. For instance, Sri Lanka could identify gaps in their labour market and extend opportunities to refugees, similar to Malaysia's pilot initiative for Rohingyas. Secondly, she suggested extending opportunities to highly qualified refugees selectively, particularly in countries where labour shortages exist. These initiatives should ideally be coupled with measures such as improving access to bank accounts, to ensure success.

Discussion

Experiences from Refugee Work

Mr Tony Seniwiratne highlighted that many asylum-seekers are very skilled and capable of work; he cited an example of how individuals who were taught sewing were able to make good quality garments and suggested garment factories partnering with relevant CSOs to outsource piecemeal work to such groups, if formal employment is not possible. Mr Seniwiratne argued that foreign labour is often employed through contract work, particularly in hotels during tourist seasons – such work does not endanger other jobs and fills an existing gap in the labour market. He made a humanitarian case for ensuring that refugee and asylum-seeker groups have access to employment on the basis of supplementing incomes to ensure food security. Upon opening up the floor for discussion, Mr Faizer Khan from Muslim Aid agreed that it is necessary to concurrently offer opportunities to work and earn and to send children to school – both aspects need to be addressed at once in order to be effective. Mr Raga Alphonsus, of ZOA, agreed that this Dialogue would be a good starting point to enable quick and concrete action, which the country is capable of, given, for example, the creative solutions adopted to run schools until the last phase of the war.

Mr Asan Saleem spoke on behalf of Muslim Aid to thank the government for providing space for refugees and asylum-seekers to stay in the country for a temporary period. He explained that financial difficulties are the main issues refugees face, suggesting that providing access to work would ease such issues. Mr Saleem noted that further to conversations with the private sector, civil society and individual donors, there are many opportunities that could be provided for them to work; concomitantly, there are many professional and skilled workers within refugee communities who are ready and willing to work. Perhaps UNHCR ID cards could validate their access to a protection mechanism or to employment. He also raised that asylum-seekers are especially vulnerable, as they only receive support from faith-based organisations and donors, and not from UNHCR. Any measures to provide formal education for asylum-seeker communities, whether at government or specialised schools, would be of great assistance.

During the discussion, Mr Luke David recognised the good work of the government health sector with respect to refugee communities. He nevertheless reflected on immigration procedures, which can be discriminatory – he spoke of visas often being declined to Christians and Ahmadis, as opposed to Muslims, as an example. He also provided insights into what such groups often face when staying in Sri Lanka, in terms of depression and sleeping through most of the day due to very few opportunities to be productive, contributing to degenerating skills and mindsets, even for the highly educated.

Ms Ummul Zaid highlighted the need for structured and frequent outreach programmes for civil society and donors, who are often unaware of what being a refugee or asylum-seeker means and the problems they face or feel that they should stay away from the issue due to risks. Ms Bird concurred that outreach has been key to livelihoods work in the region for the past 3-4 years and previously, was an aspect UNHCR did not focus on. Conducting outreach with the private sector, NGOs and faith-based organisations was a turning point, without which the opportunities found in Malaysia would not have materialised. She stated that even if outreach culminates in opportunities for very small numbers, citing three refugee workers working at a Sheraton Hotel in Tajikistan and the five taken on by the fashion designer in Indonesia, these are still real people for whom such work makes a difference. Ms Amarasinghe stated that a Refugee Advocates Group exists that is comprised of lawyers, NGOs, faith-based organisations and businesses that actively work on refugee issues. She did, however, note that while this platform exists, outreach on the issues faced could be improved, in order to engage more stakeholders.

Ms Namini Wijedasa stated that while journalists would like to do stories on refugees for positive outreach, it is often difficult to access information. Ms Amarasinghe acknowledged that information sharing has been limited, due to concerns about putting people that are under the care of UNHCR at risk. A lack of control over how information is portrayed by journalists, which could lead to negative depictions of refugee communities, could be very detrimental to their situations and safety. Nevertheless, she ceded that UNHCR should look further at connecting with people that could engage with issues constructively and positively.

Perspectives on Employment for Refugees

Mr Prasad de Silva indicated that, from the perspective of employers, there should ideally be no issue with accommodating refugees and asylum-seekers, given a dearth of employees within certain sectors (specifically the construction, garment and plantations industries). Against the backdrop of the SDGs and the decent work agenda, what is required is a legal framework for such groups to be identified and recognised. He also raised that there is a problem related to the recognition of skills, leading to such communities becoming underemployed and open to exploitation – this should be addressed as a next step. Ms Bird agreed that ensuring a legal framework is in place will be vital for the protection of such workers, who are otherwise considered undocumented workers; attempts to regularize them, even through temporary means, will be necessary.

During the open discussion, Ms Amanthi Perera raised that while there is willingness to employ refugees and asylum-seekers, the reality is that sub-contracting people without status as suggested may result in compliance issues for companies, particularly if working with international companies and customers. She posited that in comparison to taking on issues such as climate change, where it is possible for businesses to take baby steps until the state can act, the lines are more clearly drawn with respect to employment, with little recourse for employers should something go wrong. Dr Sarkar noted that this is a very relevant issue that is not limited to Sri Lanka, and that companies may have to take on board what Ms Bird and the Ambassador discussed, in terms of piloting projects that won't raise such issues.

Given the comments made thus far about labour shortages in specific sectors and the fact that many refugees and asylum-seekers are highly skilled, Dr Sriganesh Lokunathan questioned if it would be possible to conduct a survey to get a sense of how such opportunities could be facilitated. Ms Amarasinghe answered that UNHCR has data on the skills and previous occupations of refugees and asylum-seekers in Sri Lanka, compounded by the research conducted by the Citra Social Innovation Lab earlier this year; such data is available and can be matched to labour market needs. She cautioned that information related to refugee claims is confidential, but the sharing of basic data for this purpose will be possible. Ms Bird added that many groups are looking into the research question of how refugees are contributing to host communities, particularly the World Bank. She cited research conducted in Uganda by Oxford University, which tracked economic indicators before, during and after the influx of refugees, the results of which indicated a positive impact of refugees on the economy.

Mr Priyantha Kulatunga raised that solutions until now have revolved around the three 3 key traditional durable solutions – local assimilation, third country resettlement or repatriation. He questioned if there is a way to focus on the fourth durable solution, around principles of transnationalism, mobile protection and labour mobility. Ms Bird agreed on the possibility of using the fourth durable solution or complementary pathways, which are outlined in detail in the Global Compact. She suggested that there should be greater examination of the ways in which countries could identify gaps in their labour markets and look to other countries to facilitate labour migration schemes involving refugee communities regionally, perhaps with the support of ASEAN. Creating a notion of shared responsibility in this regard will be the way forward. She iterated that for many refugees, it is not a case of temporary displacement, as they often spend decades in their host countries – therefore, working collectively to harness their potential such that they can engage and contribute to meaningful work is essential.

Protection and Perceptions of Refugee Communities

Ms Wijedasa recalled her work with Pakistani asylum-seekers in 2014, a year in which a crisis ensued, with many refugees and asylum-seekers imprisoned and returned to their countries of origin, leading to a major breakdown in relations between UNHCR and the government. She inquired whether this relationship has changed with the new government, and whether any substantive measures to prevent similar such breakdowns in the future have been put in place. During the open discussion, Mr Lakshan Dias further elaborated on the context in 2014, noting that the government's stance at the time was that such groups needed to be deported on the grounds of bringing malaria into the country, exploiting resources and causing disharmony. Under customary international law, the principle of non-refoulement is applicable in Sri Lanka, indicating that forced deportation should have been prevented. While advocates were able to take a stay order against the government and prevented deportation for 21 days, he too reiterated that under a different government and against the backdrop of growing nationalism,

such a situation may arise once more. He emphasized the importance of working towards a legal backing for such communities, which must come into effect along with the provision of employment opportunities. Ms Amarasinghe responded that what transpired in 2014 was unusual and an aberration, which will hopefully never be repeated. She expressed that cooperation with the government on a technical basis has always been very good, with a common understanding of what can and cannot be done and that these issues are being approached from very different viewpoints. However, she raised that in the absence of a legal framework, there is no formal structure on which such an understanding rests, which could indicate a potential for things to change with little recourse.

Ms Wijedasa also highlighted that Sri Lankan society has not reconciled within itself, with its various racial, ethnic and religious divisions. There is also a strong sense of xenophobia and nationalism, which has led to suspicion and anger against refugee and asylum-seeker communities. Therefore, there is a crucial need to first look at changing mindsets before taking steps to assist such groups. Ms Chandrika Karunaratna added that public perceptions often involve hostility and negative stereotyping on the part of local communities, where refugees and asylum-seekers are seen as illegal migrants that have entered the country and are in direct contravention of immigration law. Ms Bird concurred that changing mindsets is a vital step to take, where civil society and the media must play a huge role to disseminate a sense of responsibility-sharing across society.

Ms Wijedasa also recounted a recent case of two Chinese people, who arrived on tourist visas, joined the labour force, and would simply exit the country, re-apply for visas, re-enter the country and continue to work in Sri Lanka – she noted that several similar such cases continue to occur, while caution is only exercised around asylum-seekers.

Interim Legal Measures

Dr Nilanjan Sarkar noted that there appeared to be a consensus that the absence of a legal framework fences in the possibilities available to make progress. He raised the question of whether it is concerns about the broader group of illegal migrants that is hindering Sri Lanka from taking steps towards legal frameworks, and whether it would be possible to implement temporary measures that won't put employers in any kind of legal quandary, in the interim. In the absence of a national legal framework, Ms Karunaratna proposed the Victim and Witness Protection law currently in operation in Sri Lanka as a potential tool to respond to challenges. This would involve bringing refugees and asylum-seekers under the broader definition of a 'victim of crime', given that one of the elements of this definition involves victims of human rights violations. Under this law, such groups would have access to psycho-social services and other forms of support. There is also an Assistance and Protection Fund in operation, which receives financial assistance from governments, donor organisations and international organisations.

Ambassador Aryasinha stressed that legal measures are always under consideration, but raised that generalizing refugees and asylum-seekers under a broader umbrella of 'illegal migrants' gives rise to complications, especially given that the numbers of these groups are quite small compared to that of illegal migrants; thus, the government must be careful, lest the situation exacerbates into something unmanageable. Dr Smith stressed that the longer such issues are left unattended, the more entrenched they become, highlighting the need for the Government, NGOs, civil society and the media to become more proactive and recognise that asylum-seekers are special cases that must be addressed. If trends indicate that more asylum-seekers will arrive in the future, preparations must be made, firstly with a national debate on whether the country is in agreement of such a situation, and thereafter, setting up a legal framework and appeal system, as well as state assistance on education, language skills and employment opportunities. He stressed on the need for a sound and balanced appeal system, where if refugees are given status and work illegally, it is within the state's right to handle it, provided such refugees have the right to appeal. Ms Amarasinghe expressed that if such groups break the law, they should indeed be prosecuted under national laws, but that UNHCR would be opposed to their being sent back, if recognised as refugees and in need of international protection.

Ms Amarasinghe raised that work permits that are time-bound and specific to certain sectors would be an effective measure allowing for state control. Such permits could depend on compliance for renewal, such that they could be withdrawn if abused in any way, thus covering the employer. She stated that if the country is to wait for legal reform, however crucial such steps are, these communities will have to suffer for far longer. She suggested that such moves be made in parallel, where, in addition to setting up legal frameworks, pilot projects offering some access to employment and education can be investigated. Ms Bird reiterated that Malaysia serves as an example for this, noting that while similarly structured work permits did not work in the plantation sector, piloting in the manufacturing sector appears to have been successful thus far.

This Working Paper was compiled from a live recording of the event and notes taken by rapporteurs. The views, opinions and ideas expressed here are a summary of the opinions of the Speaker, and do not reflect those of either UNDP Sri Lanka or LSE South Asia Centre.

The key objective of the 'Colombo Development Dialogues' is the generation of practical and relevant actions for all related sectors discussed in this Working Paper. The organisers and partners for the event will utilise all available channels to disseminate the findings of this Working Paper, which will be available to download free of charge from the websites of UNDP Sri Lanka and LSE South Asia Centre.

