



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02773/2017

THE IMMIGRATION ACTS

Heard at Field House
On 31 May 2018

Decision and Reasons Promulgated
On 05 June 2018

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

A P
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Iqbal, Counsel instructed by Polpitiya and Co. Solicitors
For the Respondent: Ms Z Ahmad, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Background

1. The appellant is a Sri Lankan national of Tamil ethnicity born on 19 February 1984. On 21 November 2016, a deportation order was made against him under s.32(5) of the 2007 Act following a conviction on 19 June 2008 and a life sentence handed down on 18 July 2008, for attempted murder and violent disorder as part of a gang which set out to kill and behead their victim (a member of a rival Tamil gang) with samurai swords, weapons studded with bolts and baseball bats in a public park in Wembley after failing to locate him in a temple in Tooting. He pleaded not guilty but was convicted along with other gang members after a three-month trial. There is nothing before me to support his claim (at AB:133)

that he entered a guilty plea. He underwent a trial and a plea of not guilty was not referred to by the judge in his sentencing remarks save for an offence by another defendant. The appellant's tariff was 114 months. He has now been released on licence.

2. The appellant entered the UK arrived at Dover as a teenager in July 1998 and unsuccessfully claimed asylum. His appeal was dismissed in September 1999 following a hearing at Hatton Cross. He then repeatedly failed to comply with reporting conditions and absconded until he was apprehended in February 2007. Following his conviction, he was served with a deportation questionnaire on 7 January 2009, to which he did not respond. On 15 January 2016 he was served with notice of his liability to automatic deportation and his solicitors then submitted reasons why he should not be deported which included asylum and human rights grounds. On 31 March 2016 a section 72 letter dated 16 March 2016 was served.
3. The appellant essentially argues that his conviction and gang membership would be known to the Sri Lanka authorities and that he would be at risk because the gang was said to be a front for the LTTE and the authorities would link him to that organisation. His representatives claimed that he did not constitute a danger to the community because he had been of good conduct in prison, had followed courses on bereavement, health and safety and understanding the restorative justice process, pursued his education and rehabilitated himself (although some of his educational certificates predated his offence). His asylum and human rights claims were refused under paragraph 353 on 24 November 2016 and certified respectively under sections 72 and 94B of the Nationality, Immigration and Asylum Act 2002.
4. On 22 December 2016, the appellant's representatives forwarded a pre-action protocol letter to the Secretary of State threatening judicial review action unless the appellant was given an in country right of appeal. It was maintained that there was evidence to substantiate the claim that the gang was linked to the LTTE and that the respondent had not given adequate consideration to this issue. The Secretary of State replied on 13 January 2017. Whilst maintaining her decision on both the asylum and article 8 claims, she agreed to interview the appellant so as to give him another opportunity to put forward any matters with regard to his claim.
5. On 31 January 2017 the appellant was interviewed. On 9 March 2017, the respondent considered his further evidence and issued a fresh decision maintaining the s.72 certificate but giving the appellant an in country right of appeal.
6. On 20 March 2017 the appellant lodged his appeal which was heard at Hendon Magistrates' Court by First-tier Tribunal Judge Cassel on 19 October 2017. Judge Cassel found that the appellant had not rebutted the s.72(2) certificate and

therefore could not benefit from the Refugee Convention. The appeal was dismissed by way of a determination promulgated on 3 November 2017 on asylum and humanitarian protection grounds but allowed under article 3 on the basis that the appellant would be perceived as having links with the LTTE because of his connection with the East Ham Boys.

7. Both the respondent and the appellant successfully sought permission to appeal against the judge's determination. On 8 December 2017, First-tier Tribunal Judge Page granted permission to the appellant on the basis that the judge had arguably erred in failing to make any article 8 findings.
8. The respondent's application was granted by myself on 15 February 2018 on the basis that the judge had arguably erred in finding that the appellant would be of interest to the Sri Lankan authorities given the lack of any significant role in undermining the Sri Lankan state or government.
9. The matter came before me on 26 February 2018. As clarified at the commencement of that hearing, and in a note forwarded to the parties on 15 February 2018, the appellant's grounds did not raise any article 8 issue and thus the Tribunal only proposed to consider the grounds as put; i.e. the complaint that the judge did not adequately reason her findings on the s.72 certificate.
10. On 5 April 2018 the decision I prepared on 26 February 2018 was promulgated. My decision upheld the judge's conclusions on the section 72 certificate and set aside the First-tier Tribunal's decision on article 3 for the following reasons: *"I note that the judge confirmed at paragraph 16 of the determination that he had considered "all" the evidence even if every item was not identified. Further, I note that the contents of the paragraphs of the statement referred to by Ms Iqbal contain nothing significantly different from the appellant's oral evidence which the judge summarized at paragraphs 17-23. The judge also considered the OASys report and the assessment by the probation officer. He properly noted that he posed a low risk whilst in custody but that the risk rose to medium in public. He considered the factors argued on the appellant's behalf such as courses taken and his own assertion that he was a reformed character. For the wholly sustainable reasons given in paragraph 32, the judge properly concluded that the appellant remained a risk. The judge's assessment shows no errors of law and Mr Kotas is right to describe the grounds as nothing more than a disagreement with the judge's finding in that respect"*.
11. On the respondent's case I found thus: *"The respondent takes issue with the judge's article 3 conclusions and argues that the appellant would not be viewed as a threat to the Sri Lankan state because he had not been active in any post conflict LTTE activity. Plainly that is correct as the appellant has been in prison since 2008. Ms Iqbal argues that the appellant's case is that he would face persecution because the gang that he was associated with would be seen as a front for LTTE related activities and she points to the report of Dr Smith who confirms that viewpoint. The respondent is, however, right to point out*

that Dr Smith bases his views on the opinion of the Metropolitan police and on material collected during the Tamil conflict. Given that the appellant has not himself been active in any post conflict LTTE activity, that his involvement in Sri Lanka was of an extremely limited nature and apparently under duress, the judge has given inadequate reasons for why he believes that he would be perceived to be a threat were he to be returned to Sri Lanka at the present time. He has also failed to consider the impact of the appellant's lengthy imprisonment and absence of any LTTE activity on any perception there may have been at an earlier point in time (if that claim is accepted)".

The hearing

12. The appellant attended the hearing before me on 31 May 2018 and gave oral evidence through a Tamil interpreter whom he confirmed he understood. He confirmed his personal details and adopted his two witness statements. He was then tendered for cross examination.
13. In response to Ms Ahmad's questions, the appellant stated that he had belonged to a gang called the East Ham Boys. He had last been involved with them in 2007 after which he had been in prison.
14. In re-examination he stated that he did not know if they still operated as he had not had any contact with them since his release from prison. In response to a question from me he confirmed that they had been based in East Ham and he now lived in Dagenham. There were no other witnesses and that completed the oral evidence.

Submissions

15. I then heard submissions. Ms Ahmad submitted that the determination of Judge Lawrence in 1999 should be the starting point of my consideration as that decision had not been challenged. The judge had rejected the appellant's claim of any LTTE involvement and had found that the appellant had fabricated his account. She submitted that his claim was now based on the perceived link of the gang he had belonged to with the LTTE but there was no evidence that membership was evidence of any LTTE link and it had not been shown that the authorities would perceive there to be such a link.
16. Ms Ahmad submitted that Dr Smith's report set out what the Metropolitan police believed but there was no evidence to show that the Sri Lankan authorities associated the gang with LTTE separatism. Dr Smith had put forward his opinion but it was not based on any sourced evidence. It was speculative that the authorities would consider the appellant was part of the LTTE. The evidence showed that they used sophisticated intelligence to select their targets. She referred me to paragraphs 87, 311, 322, 324, 325, 326, 336, 351 and 354 of GJ (post-

civil war returnees) Sri Lanka CG [2013] UKUT 00319 (IAC) and argued that previous connections were not perceived as a present threat, that there was an invitation for Tamil diaspora to return, that the focus of interest was on LTTE activists and that the government was aware that many Tamils had left Sri Lanka for economic reasons. She submitted that the appellant had no history of involvement with the LTTE, that he had never been a member and that he had been in prison since 2007. She also referred to MP and NT [2014] EWCA Civ 829 to argue that past LTTE activism did not necessarily constitute a risk factor. She referred to the Country Policy and Information Note (CPIN) of June 2017 at paragraphs 8.4.7 and 8.4.8 which suggested that the authorities would require some persuasive reason to view the appellant as having LTTE connections. No such evidence had been adduced.

17. Ms Iqbal replied. She relied on her skeleton argument and submitted that the crux of the matter was the perception of the appellant by the Sri Lankan authorities. She relied on head note 7(a) of GJ and on the continued detention of Tamils suspected of LTTE activism as shown in the CPIN at 8.4.8. She submitted that Dr Smith drew the same conclusion in his report. He was an accepted expert. He had updated his report following his recent visit to Sri Lanka in February 2018. The gang the appellant had belonged to was associated with the provision of funds for the LTTE. A google search disclosed the appellant's details and photograph. The evidence indicated that the gang, known interchangeably as the East Ham Boys/East Side Boys, collected money for the LTTE. Dr Smith had cited the experience of MM, another gang member and the awareness of the Sri Lankan authorities of his activities. Although his evidence was unsourced, it should be accepted as reliable. The appellant was in a similar situation. There was also information on the Sri Lankan Ministry website about gangs and the LTTE. Dr Smith identified cases of Tamil arrests and reported on his recent visit.
18. Ms Iqbal submitted that the appellant's past history would come to light following basis questions by the Sri Lankan authorities in the UK and he would be placed on a list of people of interest. The nature and duration of his involvement with the gang was of no relevance. What was important was how he would be perceived. There was open hostility towards Tamils by Sri Lanka officials even in the UK. The CPIN cited the case of a British Tamil who was arrested on return because of his previous involvement with the LTTE. The government was actively looking for Tamils returning from abroad and continued to arrest them. The appellant met the category of someone who would be perceived as having LTTE links and would therefore be at risk. At his interview he confirmed that funding the LTTE was an activity carried out by the gang. His present lack of political activity was irrelevant to the issue of perception.
19. That completed submissions. At the conclusion of the hearing, I reserved my determination which I now give with reasons.

Discussion and Conclusions

20. I have considered all the evidence before me and have full regard to the submissions made. The only live issue, as agreed, is whether article 3 is engaged.
21. The appellant's claim is twofold; that he would be at risk on return to Sri Lanka because of his Tamil ethnicity and past political support for the LTTE and because of his association with the East Ham/East Side Boys who themselves are said to be linked to the LTTE in the sense that they put the money they extort from businesses towards funding them.
22. As submitted by Ms Ahmad, and not disputed by Ms Iqbal, the determination of Judge Lawrence has to be my starting point. It is unchallenged in the sense that the application for permission to appeal against it made by the appellant was refused.
23. There were many serious issues relating to the appellant's claim of activities in Sri Lanka as highlighted by Judge Lawrence and indeed also remarked on by Judge Cassel. The appellant had initially claimed that when living in Kilinochchi he was pressured into joining the LTTE and that he distributed papers and magazines for them, washed their pots and pans and cooked for them for three to four months (at F7) but that his mother "*secured his release*" from them by "*crying*" (B4). At A2 he is recorded as having distributed food parcels and circulating material. His older sister was forced to join around early 1997 (at F7). Subsequently, in March 1998, he was taken by the army to a local camp, questioned and ill-treated but that once again his mother came to his rescue with the principal of the school. They then moved to Vavunikkulam and from there to a forest where he came across his uncle who arranged for his departure via an agent (B4). He told Judge Lawrence that his arrest by the army was whilst he had been living in Vavunikkulam (F7). In the skeleton argument prepared for his 1999 hearing, it was maintained he had become separated from his parents after his release (A2) and this was maintained at his first hearing (F8). He told Judge Cassel that his parents had been killed in a bombing raid a year before he left Sri Lanka and that his grandmother and uncle arranged for his journey to the UK (at paragraph 17). There is no mention of a grandmother in his initial account (B4, F8). He told Judge Lawrence he had no information about the whereabouts of his parents (F8). It should also be noted that according to his representatives, his parents and sisters died when he was young and he was then looked after his grandmother (Q3). He told the Probation Officer that all his sisters and his parents were killed in 1996 (AB:144).
24. Judge Lawrence made compelling adverse credibility findings. He found the evidence relating to past events "*not to be in the least credible*" (F10). He did not accept that the appellant's sister was with the LTTE, noting that the appellant's

parents had done nothing to protest her recruitment, or that the appellant had been detained by the authorities because of his activities. He noted the inconsistencies in his evidence (ibid). He concluded that the appellant had fabricated his account and he rejected the claim that the uncle in Sri Lanka and the uncle in the UK were not in contact especially in circumstances where the appellant had been sent by one to the other. He found there had been a "*blatant attempt to circumvent the UK's immigration rules*" (F11). Chairman Maddison upheld those conclusions on 15 October 1999 noting that there were contradictions in the evidence and that the Tribunal had fully and fairly assessed the case and reached sustainable conclusions.

25. The appellant was, therefore, found to be devoid of all credibility with respect to his account of events in Sri Lanka. The adverse credibility findings were to an extent reiterated by Judge Cassel in his assessment of the appellant's evidence (at paragraph 32). He noted that the appellant had claimed to the officer who prepared the OASys report that he had a British passport and had not received any deportation notice. Both assertions were plainly untrue. He gave inconsistent evidence about when his parents died, who had arranged for his departure and the whereabouts of his grandmother. The judge also noted that although the appellant had family support in the UK and educational qualifications, none of this had stopped him from committing the index offence. He was not a person who could be believed.
26. Taking the findings of the Tribunal with respect to the credibility of the claimed events in Sri Lanka, I have heard and seen no evidence which would lead me to depart from them and they are therefore adopted. It follows that I concur with Judge Lawrence that the appellant had no involvement with the LTTE in Sri Lanka and that his claims about arrest, detention, ill treatment, the loss of his family and the recruitment of his sister cannot be believed. I note further that the appellant's evidence for the preparation of the OASys report was that his parents died when he was 8, that he had left Sri Lanka aged 12 and lived in the Netherlands for some years before coming illegally to the UK to join his uncle and cousins (U11). He also claimed that all his sisters and his parents had been killed by a bomb in 1996 and that he had continued to live in Sri Lanka with his grandmother for a year and then came here (U13). In his witness statement of 28 September 2017, he claimed both that the LTTE tried to recruit him but his grandmother did not want that to happen and so made arrangements for his departure (at paragraphs 3 and 4) and that he had been recruited and prepared and distributed food parcels (at paragraph 11). No explanations have been offered for these glaring inconsistencies and I am left with the impression that he has told so many lies that he can no longer recall what he has said. I conclude that he had no profile of any kind whilst in Sri Lanka.
27. I turn now to events in the UK on which Ms Iqbal focused. There is no information before me as to when or how the appellant became involved with a gang which he said was based in East Ham when he did not live there and indeed

had moved to West Sussex. I do not agree with Ms Iqbal's submission that this is irrelevant as the appellant's depth, duration and nature of involvement must all impact on how he is to be perceived and the issue of perception is the crux of his case. The appellant's evidence as recorded in the OASys report is that he was at a festival when he just happened to meet up with old friends and got caught up in the incident on that day in June 2006 when the offence was committed. This is repeated in the Parole Board document at AB:182. In the absence of anything to suggest a long term or ongoing involvement or participation in their extortion attempts, he would be perceived differently to someone who had been a committed gang member and had been involved in extorting money and sending funds abroad. As the respondent noted, there is no evidence of any such money transfers. Indeed, when speaking about the gang, he gives no information at all of any other activities undertaken with them apart from the offence. He does not state that he was involved in extorting money, or that he sent funds to Sri Lanka for the support of the LTTE. Indeed, he does not even state that he supports or ever supported the LTTE cause and the evidence suggests that there was no ongoing contact between himself and the gang members. These are important factors for the assessment of how he would be perceived.

28. It is argued for the appellant that the press reports and Dr Smith's report show that the appellant is a gang member, that the gang has LTTE connections and that the appellant's conviction in itself means that he would be associated with the LTTE. I do not find that the evidence or that the consequences of the conviction are so clear cut.
29. The gang is reported to be called the East Ham Boys or the East Side Boys. It is not clear why there are two names and the appellant's evidence does not assist on this matter. I note that the Metropolitan Police Department is said to believe that the gang is a front of the LTTE (as maintained by Dr Smith) but quite why this belief is held is not clear and it appears to relate to a stance taken many years ago in 2007. I have not been referred to anything to suggest that there is any up to date evidence that that position is maintained. Nor is there any evidence other than very few media reports that make the assertion without citing any supporting evidence.
30. The Sinhala.net report of 2016 refers to the trial of the East Side Boys in May 2007 and reports that the gang was paid by the LTTE to extort money and is "a front" for the LTTE. It does not explain what is meant by "a front", how this is known or what affiliation it has with the LTTE. Even if it is accepted that some press reports took that view, they are all significantly out of date and I have seen nothing to show that the view persists or that the gang continues to operate or that it is still considered to be linked to the LTTE. Another article about London street gangs describes the connection between the gang and the LTTE as speculation. The Sun article makes no reference of any connection between the gang and a political motivation. The Get West London article reporting the

convictions in July 2008 mentions the appellant by name and carries his photograph (he has changed considerably in appearance since that time) but makes no reference to the LTTE.

31. Taken at its highest, the appellant's case is that he met up with old friends and participated in a violent offence in June 2006. At that time there was a belief that the gang was extorting money from Asian businesses for the LTTE. It must be remembered, however, that the Sri Lankan civil war was still ongoing at that time and the approach of the authorities towards LTTE supporters and activists was very different then to what it is now. The appellant's submissions and evidence I have been presented with do not appear to fully appreciate this distinction or the passage of time. I assess that evidence and the risk to the appellant in the context of the case law and all the other material I was referred to.
32. In GJ and others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC), the Upper Tribunal gave the following guidance in the numbered headnotes:

(2) The focus of the Sri Lankan government's concern has changed since the civil war ended in May 2009. The LTTE in Sri Lanka itself is a spent force and there have been no terrorist incidents since the end of the civil war.

(3) The government's present objective is to identify Tamil activists in the diaspora who are working for Tamil separatism and to destabilise the unitary Sri Lankan state enshrined in Amendment 6(1) to the Sri Lankan Constitution in 1983, which prohibits the 'violation of territorial integrity' of Sri Lanka. Its focus is on preventing both (a) the resurgence of the LTTE or any similar Tamil separatist organisation and (b) the revival of the civil war within Sri Lanka...

(7) The current categories of persons at real risk of persecution or serious harm on return to Sri Lanka, whether in detention or otherwise, are:

(a) Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post-conflict Tamil separatism within the diaspora and/or a renewal of hostilities within Sri Lanka ..

(8) The Sri Lankan authorities' approach is based on sophisticated intelligence, both as to activities within Sri Lanka and in the diaspora. The Sri Lankan authorities know that many Sri Lankan Tamils travelled abroad as economic migrants and also that everyone in the Northern Province had some level of involvement with the LTTE during the civil war. In post-conflict Sri Lanka, an individual's past history will be relevant only to the extent that it is perceived by the Sri Lankan authorities as indicating a present risk to the unitary Sri Lankan state or the Sri Lankan Government.

33. Certain other paragraphs of GJ are also relevant. We know that "The Sri Lankan government now proceeds on the basis of 'superior intelligence gathering abilities and

mechanisms', a conscious change to its security strategy" and that there is "sophisticated intelligence about LTTE cadres and supporters, both domestically and abroad" which, according to the Defence Secretary meant it was no longer necessary to have search and cordon operations or many checkpoints (at paragraph 87). Intelligence included "monitoring of activities online, on mobile phones", and in the diaspora in the four hotspots which included London (at 324).

34. The Upper Tribunal also recognised that all residents under LTTE government during the conflict would have had LTTE connections and noted that *"The majority of the examples which the parties produced of those who were ill-treated on return, were of persons who had significant LTTE links (whether direct or familial). The evidence is that although LTTE cadres were screened out and rehabilitated in May 2009, the government's concern now is not with past membership or sympathy, but with whether a person is a destabilising threat in post-conflict Sri Lanka"* (at paragraph 311). The Tribunal found that *"It is not established that previous LTTE connections or sympathies (whether direct or familial), are perceived by the GOSL as indicating now that an individual poses a destabilising threat in post-conflict Sri Lanka"* (at 325).
35. The government of Sri Lanka (GOSL) has publicly invited the Tamil diaspora to return and take part in the reconstruction of the Northern Province and Sri Lanka after the civil war (at 322).
36. Moreover, *"despite official pronouncements that all returning asylum seekers were traitors, the GOSL was aware that many of them were economic migrants. Such returnees would be interviewed at the airport and unless it was established that they had significant diaspora activities, were likely to be allowed to continue to their home areas"* (at 326).
37. The question for the GOSL was *"the identification of Tamil activists working for Tamil separatism and to destabilise the unitary Sri Lankan state"* and the court found that attendance at demonstrations in the diaspora alone was not sufficient to create a real risk or a reasonable degree of likelihood that a person would attract adverse attention on return to Sri Lanka (at 336). The submission that all Tamils were at risk on return were not accepted (at 337).
38. The overall conclusion regarding diaspora activities was that the sophisticated intelligence of the GOSL enabled it to distinguish those who were actively involved in seeking to revive and re-fund the separatist movement within the diaspora, with a view to destabilising the unitary Sri Lankan state from others and that activities such as attending one or several demonstrations was not of itself evidence that a person was a committed Tamil separatist. *"That will be a question of fact in each case, dependent on any diaspora activities carried out by such an individual"* (at 351). Much the same point was made in paragraph 354 where it was emphasised that the government *"no longer relies principally on checkpoints and searches; its approach is intelligence-led and it has sophisticated, extensive intelligence as to those who are seeking to destabilise the unitary state, within the diaspora and in Sri Lanka itself"*.

39. On the issue of travel documents and ID cards, the Tribunal found that any Tamil seeking a travel document from the Sri Lankan High Commission would have a file created in Colombo and be interviewed in London before a document was issued. Activities undertaken by an individual would become known and the authorities would decide whether the returnee posed a real risk to the unitary Sri Lankan state on return (at 352).
40. I was also referred to MP and NT (Sri Lanka) [2014] EWCA Civ 829, the unsuccessful asylum seekers whose appeals were considered along with GJ who succeeded. The Court of Appeal confirmed the finding of the Upper Tribunal that more was needed to excite the interest of the authorities than the attendance at demonstrations or a perception of links to the diaspora that provided funding (at 24 and 25). It was emphasised that a record of past LTTE activism did not as such constitute a risk factor for Tamils returning to Sri Lanka, because the Government's concern was now only with current or future threats to the integrity of Sri Lanka as a unitary state; and that that was so even if the returnee's past links with the LTTE were of the kind characterised by UNHCR as "more elaborate" (at paragraph 50).
41. Whilst these judgments do not mean that the GOSL would never regard an individual as posing a threat where there was no diaspora activity, it appears to be established that something of substance is required for such a perception. In the appellant's case, the question is whether his conviction would be enough to connect him to the LTTE and arouse an adverse interest in him and/or whether he would be put on a watch list because of that conviction.
42. I have read both Dr Smith's reports with care. I accept he has assisted the Tribunal on previous occasions and that he is regarded as an expert. However, I did not find the opinion offered in the reports to be helpful in advancing the appellant's case. I make the following observations about the two documents.
43. Having considered both reports in great detail, I note that a large portion of the first report has been included in the second. It is unclear why this was considered necessary if the purpose was to provide an update and indeed it meant much time was wasted re-reading large extracts that I had already read in the first report. Indeed, out of a total of 56 paragraphs of the second report, the following paragraphs (the vast majority) are reproduced in the new report: 10-16, 18-35, most of 36 (until the last bullet point on p. 21), 37-53. Both reports contain the same incomplete sentence about the appellant's fears of deportation (at pp. 92 and 10 respectively) and paragraph 2 is missing entirely from the first report. Although Dr Smith in both reports records that the Metropolitan Police Department believes that there is a link between Tamil gangs and the LTTE,

nowhere in the evidence have I seen an explanation for why this is so and, more importantly, if this is still the position.

44. In his second report Dr Smith concedes that the appellant's association with gang may be "loose" (at paragraph 9). He also refers to the appellant's name as appearing with respect to crimes committed by the gang but I have evidence of just the one incident and have seen no conviction for carrying illegal weapons. The report also refers to the appellant's friend being murdered in front of him (at 21) but this is not mentioned anywhere else in the appellant's evidence.
45. Dr Smith confirms that his last visit to Sri Lanka was earlier this year and he also states (at paragraph 12) that he had commissioned further research in Sri Lanka "to ascertain the perceived link on the part of the authorities on such links" (i.e. connections to LTTE). No details of the nature of the research or when it was commissioned or what the outcome was have been given and I note that as the same paragraph appears in the older report, these attempts could not have been made following his recent visit.
46. Dr Smith states that the Sri Lankan Ministry of defence website shows there is a belief in link between organised crime and LTTE but that was in connection to a 2010 fraud case. It is unclear why a gang of youths would be seen in the same way. Nor is there any clarity about whether such a belief is still declared on the website. Indeed, if there had been more recent news, I would have expected Dr Smith to cite it. The absence of any up to date material and the reliance upon old press articles is a strong indicator that there is no more recent information to support the submission of a perceived link.
47. The extracts from a news report at paragraph 22 is seven years old yet that is what is relied on to maintain that the security forces remain on alert and continue to have checkpoints and surveillance (at 23). The Amnesty International report is from 2012 (at paragraph 34) and what are described as "recent examples" of arrests of LTTE suspects largely date back to 2013, 2014 and 2015 with decreasing numbers for 2016 and 2017 (at 36). Limited information on their backgrounds is provided and on how long they were held or if they were released (bearing in mind what was found in GJ; see paragraph 37 above). Just two cases are cited for the proposition that "there is a overall strategy to subdue the Tamil areas. This involves a great deal of intimidation and worse" (at paragraph 37). Both appear to have been LTTE supporters but it is rather a leap from that to the conclusion that "violence against anyone remotely connected with the LTTE would appear to be a part of a wider strategy".
48. Dr Smith maintains that "it is extremely likely that the appellant is now and was hitherto known to the Sri Lankan authorities" (at paragraph 14) but he does not clearly explain why.

49. At paragraphs 16-19, Dr Smith provides evidence about the case of one MM. This dates from 2013, however, and there is no clarification as to how he obtained this information or how he knew what happened at the Sri Lanka High Commission between MM and the authorities. Without such information, I am unable to give weight to these assertions.
50. I find that much of Dr Smith's material is out of date and the most crucial statements about Tamil gangs and links to the LTTE are based on evidence obtained at the time of the conflict. Whilst he has been able to assist the Tribunal in the past, regrettably he has not been able to do so in this case.
51. Whilst I accept that the appellant's name is likely to show up if a google search is undertaken, I do not find that his profile is such that he would be perceived to be a threat to the united Sri Lanka state of the GOSL. There is nothing to suggest that his offence was politically motivated or that he has had any real involvement with the East Ham Boys, apart from the 2006 incident. The assertion that the gang was involved in raising funds for the LTTE has not been established and it is speculative to maintain that the perception of the authorities would be that the appellant would be seen as a destabilising threat. He has not been involved in any previous political activities, there is no family history of involvement given the judge's findings in 1999 and the appellant's wholly contradictory evidence about his sister, no information about any activities in extortion with the gang, his long spell in prison and the absence of any political activity or association with the gang since release. Indeed, I have no evidence to show that the gang still operates or how long it had been in existence. The sophisticated intelligence available to the GOSL would clearly show that there was nothing in the appellant's profile to raise any interest in him and that all that his conviction shows was that he was a violent hooligan in 2006.
52. I conclude therefore, having regard to all the evidence, the submissions and the country guidance, that the appellant would not be viewed by the Sri Lankan authorities as a threat to the destabilisation of the state. Where demonstrators at several protests are not necessarily taken seriously as threats, there would also need to be more than the appellant's conviction of a crime with other Tamil youngsters who were, some 12 years ago, seen to have a connection with the LTTE to result in a perception that he was an individual who would pose a serious risk of destabilisation. He has never had any role with the LTTE, let alone a significant one, and therefore any investigation into his past would not lead to a real risk of serious harm. The public display of hostility from a certain official referred to in submissions by Ms Iqbal must be seen in the context of paragraph 326 of GJ. The appellant is not and has never been a Tamil activist and would not be perceived as such by the Sri Lanka authorities. It follows that his article 3 appeal fails. There is no appeal on article 8 grounds and the First-tier Tribunal's decision to dismiss the asylum appeal stands.

Decision

53. The appeal is dismissed on article 3 grounds.

Anonymity

54. I continue the anonymity order made by the First-tier Tribunal, there having been no request to remove it.

Signed

A handwritten signature in black ink, appearing to read 'R. Kekić', with a small dot at the end.

Dr R Kekić
Upper Tribunal Judge

Date: 4 June 2018