

Research article

# Sri Lankan Refugees in India: The Problem and the Uncertainty

Dr. Himanshi Raizada

Lamar University, Beaumont, TX

(409) 880-8110.

E-mail: [himanshi2@hotmail.com](mailto:himanshi2@hotmail.com)

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## Abstract

This paper discusses about the growing influx of the Sri Lankan refugees to India and its socio-political consequences, while analyzing the perspective of this problem. The refugee phenomenon is one of the growing problems that have been faced by the different countries in the world. Particularly in the context of India, the concomitant socio-political set-up in certain parts of the country has been deeply disturbed by the refugees and in some part, their presence have affected the local economy and resource-sharing mechanism.

The main objective of this paper is to understand the socio-economic consequences of the presence of Sri Lankan Refugees in India and how and what extent, these have been affected the livelihoods of the people at large in the state of Tamil Nadu. The paper is based on the secondary data, review of literature and in-depth interviews with the key informants about the different aspects of refugee problem and its consequences on the local political and economic set-up in Tamil Nadu. We have used the time-series data analysis framework for synchronizing the data on the influx of the refugees from Sri Lanka to India, particularly to the State of Tamil Nadu during the different periods. The paper concludes that legal framework pertaining to management of refugees in India need to be revised considering the changing socio-political scenario. The plight of Sri Lankan refugees in India should also come to amicable solution, without looking into vested political interests. **Copyright © [www.acascipub.com](http://www.acascipub.com), all rights reserved.**

**Key Words:** Refugee, Sri Lanka, India, Tamil, Policy.

## Introduction

During the post-independence period, India has been witnessing the influx of “Refugees”<sup>1</sup> from many of its neighboring countries. This “Refugee” phenomenon had been one of the growing problems faced by almost all the developed and developing countries in the world. There are around 4,945,000 million refugees all over the world<sup>2</sup>. India has been in the receiving end, offering shelter to the refugees from East Pakistan (which later became Bangladesh in 1971) and West Pakistan during 1947-48. They were the early refugees followed by the Tibetans, Chakmas of Bangladesh, Afghans and Sri Lankans. Since 1947, India has been giving shelter to more than 2, 24,500 refugees<sup>3</sup>. At present, the Sri Lankan refugees are the second largest refugee (next to the Tibetans) community living in India. There are over a lakh Sri Lankan Tamil Refugees living in many parts of Tamil Nadu. They are broadly categorized into three divisions; firstly, as camp refugees over 65,000, living in 129 camps<sup>4</sup> in Tamil Nadu until the end of the year 2000; secondly, the non-camp refugees who have personal resources and special provisions for accommodation to stay in Tamil Nadu; and thirdly, special camp refugees, who have been part of one of the militant outfits. The numbers of registered non-camp refugees are around 20, 667<sup>5</sup> Apart from them, there are non-registered Sri Lankan nationals living in Tamil Nadu who could vary between 35,000 to 45,000 according to conservative estimates.

Refugees are people who are uprooted from the land of their own and forced to run away to a different place for the safety of their life leaving all their belongings and dreams behind. In Swahili, the Tanzania’s language, the word for refugee is “mikimbizi”, which literally means “a person who runs” under compulsion away from his homeland in fear for his survival. Fundamental justification for this forcible migration may vary from country to country. But because of the multi-religious and pluralistic culture prevailing in almost all the third world countries, this phenomenon had rendered the Sinhalese to follow the chauvinistic approach, which led to the rise of militancy among the Sinhalese and the Tamil migrant groups leading to loss of peace and harmony among groups of people in the nation. In early 1970’s, the Tamil youths took up arms and it was against the Sinhalese ethnic state to assert the rights of the Tamil people to self-determination. Later, in the month of May, 1976, the Liberation Tigers of Tamil

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<sup>1</sup> Refugee definition as laid by UNHCR

<sup>2</sup> UNHCR Report 2001.

<sup>3</sup> *‘Refugee Population in India’* UNCHR - Statistics - 1998- Overview.

<sup>4</sup> Government of Tamil Nadu Report, *‘Camp Population of Sri Lankan Refugees at various camp Centers in Tamil Nadu’*, dated 30th April 2000.

<sup>5</sup> *Notes on Refugees and Repatriates’* Department of Rehabilitation, Government of Tamil Nadu, 2000.

Eelam (LTTE) was formed under the leadership of Velupillai Prabhakaran to accomplish their objectives in the island nation. Since then the trend of militancy did not diminish and in course of time the land was not safe for the peace loving people of Tamil origin.

The ethnic conflict that can be traced since the Independence of Sri Lanka in 1948 has been the root cause of the problem of refugees in the last quarter of the Twentieth Century. The “Sinhala Only” language policy of 1956 is considered to be the first major crack in the ethnic mosaic. Since then the problem has been escalating and a sense of alienation has set in among the Tamil minorities. After July 1983, there has been a gradual militarization of Sri Lankan society and the conflict has grown to abominable proportions. Mass scale genocide, erosion of the value system, loss of freedom of movement, development of terrorism among the disgruntled and aggressive Tamil youth, who were instrumental in the formation of revolutionary organizations like Liberation Tigers of Tamil Eelam (L.T.T.E.) and the moderate Tamils about the forceful conscription by the LTTE are the cognitive outcome. The following passage will reveal the condition of the Tamils in Sri Lanka during the early 1980's. *“A match box cost me 15 Rupees, ... one litre of kerosene costs 400 Rupees, ... no electricity, no hospital, my house and my beautiful village were burnt down to the ground by military forces and militants of Sri Lanka ... there is no guarantee that I can spend another day with my children..... my wife says to our two year old daughter “eat soon otherwise the military bombing will destroy our shelter and you won't have food for days”<sup>6</sup>.*

This situation was there from the early part of 1980's and continued to batter the Tamils resulting in the serious discord between the people of Tamilians and the Sri Lankans.

Earlier, they are broadly categorized as camp refugees, non-camp refugees and special camp refugees. Apart from them is a group of refugees who have entered the country in the garb of tourists, students, patients, etc., and have not left the country after the expiry of their visas. Neither the Government of India nor the Government of Tamil Nadu could effectively monitor their movement and send them back to their country.

The first group namely the camp refugees are over 65,000 living in the 129 camps in the Tamil Nadu State. The second group namely the non-camp refugees are persons having better resources in the Tamil country through their incessant connections with the local Tamils. They registered their names and the names of their family members in the local police stations. The third groups who are the special camp refugees are a part of one of the militant outfits of Sri Lankan Tamils who are now behind the bars in Tamil Nadu. Here it must be noted that the exact number of some persons in a unit of second group of non-camp refugees is not accurate because all of them have not registered

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<sup>6</sup> .Personal Interview with Sri Lankan Refugee ‘M. Bhagayam’ in Vellore District, 13th February 2002.

themselves in the nearby police stations. The registered figures are 20,667 and the unregistered refugees are about 35,000 to 45,000 according to conservative estimates. This study mainly concentrates on Tamils and Sri Lankans leading to loss of livelihood and business and breakdown of fishing and other social and economic activities of the Tamils in the North and Eastern parts of Sri Lanka. Consequently, geographical proximity with India did work, as a 'pull' factor on the Tamils and the ethnic affiliation with Tamil Nadu was another reason for them to choose India as their asylum.

The Sri Lankan Tamils, who fled their country, have sought asylum in Europe, North America, Australia and India. According to the United States Committee for Refugees, there are about 200,000 to 300,000 Sri Lankan refugees in the world. Out of this, 110,000 are in India. (This includes resettled refugees, asylum seekers). The State of the World's Refugees Report for the year 2000, states that at the end of 1999, there are almost 120,000 asylum seekers of Sri Lankan origin. Out of this, 15,900 are in France, 9,200 in Germany, 8,300 in United Kingdom, 4,300 in Switzerland, 2,300 in Norway, 2,100 in Netherlands and 66,400 refugees are living in camps in India.

The following table highlights that majority of the displaced people from Sri Lanka have sought asylum in India. In fact India has been the easily accessible country. The Sri Lankan Tamil refugees were pouring into India throughout the eighties and the early nineties. But the picture has changed substantially since then. Table-1 shows the status of Sri Lanka refugees in different countries.

### **The Process of Refugee Influx**

According to the Ministry of Home Affairs, there are about 64,500 Sri Lankan refugees residing in 116 camps in Tamil Nadu and one camp in Orissa at the beginning of 2001. It is estimated that more than 50,000 refugees are living outside camps. At the peak of the conflict in 1990-91, there were over two lakh refugees living in India. The choice of their destination to India can be located in three factors. The geographical proximity and contiguity of Sri Lanka makes India the only easily accessible country of asylum in a crisis situation. At the closest point, India and Sri Lanka are separated by the Palk Straits. The cultural and linguistic affinity with Tamil Nadu worked as a 'pull factor'. The third reason was the positive response of the Indian state as well as civil society towards the incoming refugees.

As mentioned earlier, there are over one lakh Sri Lankan Tamil refugees in India.<sup>7</sup> The number of refugees in India varied according to the situation in Sri Lanka. During major army operations, the number increased. On other

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<sup>7</sup> Most of the refugees are Tamil, either Hindus or Christians. However, according to the UNHCR Reports on Repatriation, 1993 and 1994, there were some Muslim refugees as well. Though the actual break up of figures are not available, the Repatriation Report, 1993 mentions that 125 Muslim refugees returned to Sri Lanka in 1993 and 136 returned in 1994.

occasions, the refugee influx registered a decline. It was during these phases that repatriation measures were undertaken, which further brought down. At the end of January 1999, there were 17,165<sup>8</sup> families numbering 62,924 people living in 131 refugee camps in twenty-four districts of Tamil Nadu. They are spread out throughout the state. The largest number of refugees (5,530) is concentrated in the Mandapam transit camp in Ramanathapuram district, followed by 4,885 refugees accommodated in four camps in Madurai district and 4,080 refugees in four camps in Erode. There were more than five thousand children below the age of eight, who in all probability were born in India. Apart from camp refugees, there are about 40–50,000 Sri Lankan refugees living outside camps. Table-2 gives details of the camp refugees in Tamil Nadu.

### **Trajectory of Flight**

Sri Lankan refugees fleeing to India have adopted two main routes – one from Colombo to Madras by air and the other by boat. The first route was mostly taken by the first batch of economically well off people in the first phase in 1983.

However, most of the refugees have taken the more arduous second route. Refugees who have taken the sea route have not adopted only one route. The entry and exit points changed due to the change in location of deployment of naval forces at the exit points in Sri Lanka and India. With these overarching concerns and limitations the fleeing refugees have always sought to adopt the shortest possible route. The two main exit points from Sri Lanka are in Mannar and Jaffna:

1. Vidathaltheevu to Rameswaram: Vidathaltheevu is a small fishing jetty situated in Mannar mainland. This point has been frequently used since Mannar Island was wrested by the Army in 1991-92.
2. Nachikuda to Dhanuskody: Nachikuda is located in Mannar mainland. Since there is a naval detachment in Tallimannar, it was not safe to depart from this point. Refugees, therefore, escaped to India from Nachikuda. This route was frequently used in the eighties.
3. Mayiliddy to Vedaranyiam: Mayiliddy is close to Palaly and Kankesanthurai. To avoid the military patrolling, people chose to flee from this point to go to India. Vedaranyiam is north of Rameswaram. Refugees disembarked here due to two reasons. One, conditions of the sea, and two, it is the shortest route from Mayiliddy. It needs to be mentioned that this was the most frequent route used by militant refugees.

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<sup>8</sup> This figure is based on the Cabinet Memorandum of the Ministry of Reconstruction, Rehabilitation and Social Welfare Sri Lanka, issued by Mr. P. Dayaratne, Minister of Reconstruction, dated, December 5, 1991.

4. Valvettithurai to Thangachchimadam and around: Valvettiturai is located in the Northern tip of Jaffna. Valvettiturai and Mayiliddi are approximately ten kilometers apart. It is known for smuggling between Jaffna and Tamil Nadu for decades. From the seventies people have frequently used this as an escape route. Except during the IPKF period and in the post 1995 period (after Jaffna was wrested by the Army), this route was frequently used by the Sri Lankan Tamil militants.
5. Negombo to Rameswaram and around: This route was used rarely. Immediately after the 1983 violence and again in the early nineties, mostly by Southern Tamils who could not afford flight charges used this route.
6. Trincomalee to Thanachchimadam and around: This long and unsafe route was used by refugees between 1983 and 1987.
7. Kurunagar to Rameswaram: Kurunagar is adjacent to Jaffna town. This route was particularly used during the Operation Liberation 1987.

They start the journey amidst the fear of death and destruction. Their two major concerns are survival and security. "It is a terrible feeling, something I cannot describe... there is fear of death behind you and the fear of the unknown ahead."<sup>9</sup> It is a difficult journey where they have to face human as well as natural threats. The jungle terrain is most unfriendly. There is fear for the LTTE, which wants money or gold, or a child of the fleeing family to recruit in its cadre. People have to go without food for days during this trek. Rain and bad weather conditions add to their ordeal. Once they reach the point closest to the sea, they have to escape from the Sri Lankan Navy, either by hiding from them or bribing them. Their next task is to arrange for a boat to cross the waters. Fishermen, who ferry them across, normally take a substantial amount of money, ranging between 500 to 5000 Sri Lankan Rupees, for a boat ride. The refugees have constant fear of being shot by the Sri Lankan and Indian Navy and confiscation of the boats. For this reason the journey starts in the cover of darkness, and the refugees are dropped at remote unmanned areas along the Indian coastline in Dhanuskody. In some cases they are also dropped off in the shallow waters from where they wade along to the shore. Sometimes they are left on little islands near to the Indian coast. These points are not shallow enough to wade, so the refugees remain stranded for hours before passing Indian fishermen or coastguards help them. From this point they walk to Mandapam camp or take a bus if they have Indian currency.

### **Phases of Arrival**

The Sri Lankan Tamil refugees have come to India either in an exodus in the immediate aftermath of violence or as a trickle due to the overall impact of conflict. Some of them have even come to India as the country of their first asylum and then left for Western Countries. According to Mc Dowell, India has been their 'stepping stone' for migrating to the West. By and large the four main phases coincide with the four phases of violence discussed in Chapter Three. The phases could be identified as: Phase I, 1983-1987.

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<sup>9</sup> This was expressed in a personal interview with Selamma who lives with two daughters and a disabled son in the Naranammalpuram camp in Tirunelveli district, Tamil Nadu. She sold all her jewelry to pay for the boat trip. She had lost her elder son during shelling and felt that with no money and no source of income and an imminent fear of death all the time she could not afford to live there anymore.

The riots of 1983, led to the first large scale displacement of Sri Lankan refugees outside the country. Though upper and middle class Tamils especially professionals had been gradually migrating to the West since the 1950s (and even before)<sup>10</sup> the scale and intensity of the refugee movement in 1983 had outstripped all previous cases of displacement. According to the USCR about 27,000 to 30,000 Sri Lankan refugees came to India in 1983. During the entire phase, an estimated 1,34,053 refugees sought asylum in India. Out of this, over 88,000 refugees belonged to the affluent sections of the Sri Lankan Tamil society and chose to stay outside camps. Only 22,000 Sri Lankan Tamils were availing government assistance and camp accommodation. Most of the first batch of refugees came from Colombo to Madras by air. Some of the refugees came by boat.

The refugees represented four distinct categories of refugees. (a) Semi-skilled or unskilled laborers, peasants, fisher folk and small traders from the North and East. (b) Estate Tamils of Indian origin who worked in Plantations in the Central Province, (c) Colombo Tamils who were affluent and took the flight route, (d) Militant refugees who maintained a regular traffic between the Jaffna Peninsula and Rameswaram.

## **Phase II, 1987-1990**

With the signing of the Indo-Sri Lanka Agreement in 1987, and the induction of the Indian Peace Keeping Forces, there were hopes for peace. This resulted in the first phase of repatriation between December 1987 and August 1989<sup>11</sup>. Since October 1987, the situation registered a change due to the resumption of hostilities. The Indian Peace Keeping Forces had increased their strength to 15,000 from the initial 5,000. Jaffna was wrested after a prolonged fight in October 1987. But most of the displacement was within the Peninsula itself<sup>12</sup>. However, a fresh exodus began since August-September 1989 when the IPKF was preparing to withdraw from Sri Lanka. With the impending departure of the IPKF, the LTTE began to crackdown on leaders and cadre of other militant groups, especially the pro-Indian ones. Most of these refugees during the period were therefore belonged to different militant

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<sup>10</sup> For details of migration before 1983 see Valentine Daniel, *Charred Lullabies: Chapters in an Anthropography of Violence*, (Princeton, New Jersey: Princeton University Press, 1996)

<sup>11</sup> Repatriation is discussed in detail in a subsequent section of this chapter.

<sup>12</sup> This was due to three reasons: (a) there was curfew, (b) people feared getting caught in the crossfire (c) they fled to refugee camps. It was ensured that most camps had access to food

groups. According to figures provided by the Mandapam camp authorities, about 1,650 refugees came to India through Rameswaram<sup>13</sup>. The Government of India facilitated their arrival by flights as well as by other means.

### **Phase III, 1990-94**

The period after June 10, 1990 was the most intense phase of violence, in the conflict. This also marked the highest point in refugee generation, within and outside the country. Between June and July 10 18, 3000 refugees came to India and by July 25th, the number had reached 50,000. The total number of refugees who sought asylum in India for the year 1991 was estimated at 2,10,000. Out of this, 113,456 refugees were accommodated in refugee camps in Tamil Nadu. The profile of the refugees marked a difference from the first phase when most of them belonged to the upper strata of the Sri Lankan Tamil society. This period highlights three important features: One, high intensity of displacement, two, complete reversal of condition of refugees after the assassination of Rajiv Gandhi in 1991, and three, resumption of repatriation in 1992.

### **Phase IV, 1995-2000**

By the fourth phase, the situation had changed substantially both at home and in the country of asylum. There was substantial displacement but most of it was within the island itself. The exodus to India began in the wake of Operation Riverasa in October 1995. Between October 1995 and December 1999, only 20,196 refugees came to India. Though there was intense violence in Jaffna, and later Vanni, the rate of refugee influx has been low as compared to other periods. Repatriation has also been completely halted due to the volatile situation. A large number of refugees who came during this phase were earlier repatriates. There were two reasons behind this change scenario (i) There was increased vigilance in the Palk Straits because the Government of Sri Lanka wanted to contain the refugees within the country in order to reduce the 'India factor'. (ii) India was also wary of refugees, particularly militants entering in the guise of refugees.

Each of these phases indicates a distinct process of refugee influx. In the first phase, most of the refugees belonged to the upper or upper middle class. The second phase brought militant refugees. The third phase marks the highest point of influx when the number crossed the 200,000 mark. In the fourth phase, the arrival of Sri Lankan refugees to India was largely induced by the LTTE. This depended upon the politico-military strategies adopted in Sri Lanka as well as the response of the host community.

### **The Management of Refugees**

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<sup>13</sup> Though Mandapam camp authorities do not specify the break-up of militant and civilian refugees, it is understood that a substantial number of refugees in 1989 belonged to various militant groups.



## Understanding Refugee Management

Managing refugees is just as complex and varied as the dynamics of displacement. The response of the host country to incoming refugees has been diverse. At the same time, the same country responds in different ways to different refugee groups. There is, therefore, no definite pattern in which a host state responds to a refugee influx. It is due to this reason that understanding the phenomenon within a framework is difficult. Scholars in the area rarely attempt at constructing an explanatory framework. The fact that most studies so far have been refugee-centric (concentrating on the refugees and their impact) makes the task of evolving a model further problematic.

Broadly speaking, the management of refugees includes

- (i) Legal Mechanism – the response of the host country towards an influx of refugees.
- (ii) Initial provision – care and maintenance
- (iii) Action in term of repatriation –local settlement or resettlement outside the country of first asylum.
- (iv) Financing the operations on the part of the host country or international community. As per the norms of international law, while every state has the right to grant asylum to refugees, there is no corresponding duty to that effect. Furthermore, refugees do not have any right to be granted asylum.

Although the Universal Declaration of Human Rights, 1948 categorically states, “everyone has the right to seek and enjoy in other countries, asylum from persecution,”<sup>14</sup> States do not owe any fundamental duty. According to Corf, States are influenced by three factors in their response towards refugees.(i) Traditional norms, (ii) international initiatives, and (iii) political and security concerns.

Early scholarship in the 15<sup>th</sup> and 16<sup>th</sup> centuries pioneered by Fransiscus de Victoria, Franciscus Suarez, Hugo Grotius, etc. felt the need to return the accused to the place of occurrence of crime. International initiatives for refugees became relevant in the aftermath of World War II. The new legal framework that emerged included the United Nations Charter, 1945, the International Human Rights Declaration 1948 and the 1951 Convention relating to refugees. Apart from traditional norms and international initiatives for the protection of refugees, every State has its own domestic compulsions, which influence its policy towards refugees. These include the electoral interests of parties, pressure exerted by interest groups, and financial and administrative concerns<sup>15</sup>

Karen Jacobsen identifies three possible options for a host country when refugees arrive at its borders: (i) it can do nothing, (ii) react negatively (iii) act positively. When the government does nothing, it is incapable or unwilling to take a policy decision, or the arrival of refugees does not become an issue.

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<sup>14</sup> Universal Declaration of Human Rights, General Assembly United Nations, Document Art.14, pp.71-74

<sup>15</sup> Ibid, pp.311-14

The policy decision taken by the State is again influenced by three factors identified by Jacobsen. They are: the international refugee regime, the local community and the refugee's themselves.

Myron Weiner and Rainer Munz have pointed out three possible responses to a growing number of refugees and asylum seekers. They are: (i) Adoption and implementation of better ways of controlling migration and try repatriating existing refugees. (ii) Accepting a certain number, and then addressing the social, political and economic consequences, passed by the refugees. (iii) Adopting preventive measures and intervention strategies towards the country of origin.

According to Corf, when faced with a refugee situation, countries adopt any of the following five approaches based on humanitarian on domestic concerns the time. The approaches towards refugee resettlement are:<sup>16</sup>

- (i) The Traditionalist Approach: This is based on three assumptions—no state has a duty to accept refugees; a nation offering asylum is responsible for their maintenance and therefore, it should be cautious; and a global refugee market effort” will somehow regulate the system and make it work. The US response is an example of the traditionalist approach. This approach gives prime importance to the state and protects it from accepting unwanted refugees.
- (ii) Universalistic Approach: Diametrically opposed to the former, this approach is based on the following premises: refugee's present global problem international instruments should form the basis for dealing with the problem; the problem should be solved through global cooperation. This approach aims at securing for the refugees protection and new homeland. The Universal Declaration of Human Rights 1948, The 1951 Convention and the Protocol of 1967 are some of the instruments through which the universalistic approach seeks to deal with refugees.
- (iii) The Regionalist Approach upholds that countries of the region have a duty towards refugees. Organization of African Unity has set a trend in the creation of a regional instrument for protection of refugees in the region.
- (iv) The Causalist Approach puts the onus of the issue on the country of origin. The UN has adopted this approach for a number of years by advocating repatriation as the solution.

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<sup>16</sup> For details see Aristied R. Zolberg. “From Invitation to Interdiction: US Foreign Policy and Immigration (pp. 144-46) and Tom Farmer, “How the International System Copes with Involuntary Migration: Norms, Institutions and State Practice, in Myron Weiner, Michael S. Teitelbaum, Threatened People, Threatened Borders, World Migration and U.S. Policy, (New Delhi: Universal Books, 1997).

- (v) The Hybrid Approach, as the name suggest, is a combination of the above approaches. The Post World War II scenario gives a picture of how each of these approaches has been implemented. First Traditionalist, then Universalist with the implementation of the Convention and Protocol, then an effort to regionalize the issue—the First World does not welcome Third World refugees, and often adopts the Causalist Approach with an emphasis on repatriation.

The response of the refugee receiving State is based on one or a combination of the above approaches. The State grants or refuses asylum to refugees. Asylum is the permission granted by the host State in deciding to admit those in flight, allow them to remain and to protect them against removal and exercise of jurisdiction of the country of origin. The response of the State could vary from granting admission as a permanent right to settle, settle on a temporary basis, or just as an emergency measure. The UNHCR classifies these as:<sup>17</sup> (1) Convention status refugees who have been granted permission on a permanent basis. (2) Humanitarian status includes temporary admission, ‘provisional admission’ and ‘exceptional leave to remain.’

Closely associated with asylum is the principle of *non-denouement*, which is considered as the edifice of International Refugee Law. It declares that a state may not return a refugee within its border to the home country if they could face persecution there. In the final analysis, it needs to be stated that International Law is not binding, and ultimately it is the discretion of the states whether or not to grant asylum to refugees at its border.

### **Legal Framework in India**

By and large, India has responded to refugee inflows within the parameters of the hybrid approach discussed earlier. Though the humanitarian principle was recognized, India has offered ‘actual protection’ to refugees “based on the principle of the right to life and liberty to all persons...”<sup>18</sup>. India’s policy towards the Sri Lankan refugees has been broadly based on humanitarian concerns, foreign policy concerns and response of the local population.

India has not signed the 1951 Convention or 1967 Additional Protocol, the two major International Instruments on refugees. The rationale behind this can be located in three reasons. Firstly, India shares contiguous borders with most countries in the region. It also shares ethnic and linguistic affinity among people in the border areas. An ‘open door’ refugee policy could be adverse politically and demographically. It could adversely affect the labor market as well.

Secondly, India is wary of the presence of an international body like the UNHCR, particularly in view of its foreign policy considerations especially in the South Asian region. Thirdly, considering the specific realities in South Asia, the 1951 Convention is not feasible, more so at a time when Convention countries are increasingly adopting *non*

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<sup>17</sup> The State of the Worlds Refugees, (Oxford: OUP/UNHCR, 2000), p.324.

<sup>18</sup> Arundhati Ghose, “Providing Refuge” *Seminar*, no.463, March 1998, p.57

*entrée* regimes. However, India is an EXCOM (Executive Committee) member of the UNHCR since 1995. It needs to be mentioned that adopting a Model National Law on Refugees is being discussed.<sup>19</sup>

In March 1979, India acceded to the two 1966 Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and also the Convention on the Rights of the Child, in 1992. These are relevant in refugee situations as well. Though the Covenants have not yet been incorporated in Indian Law, this does not absolve India of its international obligations under the Covenants. Since there are no specific laws, a refugee influx is managed through administrative decisions rather than specific legislative enactments.

In India, refugees are therefore treated under the law applicable to aliens, unless otherwise specified<sup>20</sup> as in the case of Ugandan refugees of Indian origin. According to the Supreme Court of India, the rights of foreigners are enshrined in Article 21 of the Indian Constitution— Protection of life and Person Liberty, which states that “no person shall be deprived of his life or personal liberty except by procedure established by law.” This contains the principle of *non-denouement*. However, the Supreme Court, in a case has further stated, “the fundamental right of the foreigners is confined to Article 21 the right to life and liberty and does not include the right to reside and settle in this country, as mentioned in Article 19, which is<sup>21</sup> applicable only to citizens of this country.

The principal Indian laws relevant to refugees are: The Foreigners Act 1946 (section 3, 3A, 7, 14). It regulates entry of foreigners to India. It defines foreigner as a ‘person who is not a citizen of India’. Registration of Foreigners Act 1939 (section 3, 5) deals with the registration for entry, stay, and departure of foreigners from India. The Passport (Entry of India) Act 1920 and the Passport Act, 1967 deal with powers of the government to impose conditions for entry into India and the issue of passport and travel documents to regulate their departure. This is applicable for citizens as well as foreigners. The Extradition Act, 1962 is also applicable to refugees. The above laws signify that refugees do not have specific legal protection. Thus, bonafide refugees and asylum seekers could be indicted under (i) illegal entry, (ii) illegal (changeable under Foreign Act) and illegal departure with false passports (under Foreigners Act, Passport Act and the India Penal Code).

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<sup>19</sup> For text of Model National Law on Refugees, see Appendix.

<sup>20</sup> For details see Vijay Kumar Diwan, Law of Citizenship, Foreigners and Passports (Allahabad: Orient Law House, 1984), p.291.

<sup>21</sup> Louis de Raedt Vs. Union of India 1291(3) SCC 554 at p.562 State of Arunachal Pradesh V. Khudiram Chakma JT 1993 (3) S.C. 546 at p.552. The SC upheld the above in Louis De Roedt case.

The principles of customary international law cannot be enforced if they are in contravention with states. However, the National Human Rights Commission has been active in protecting the rights of refugees. Intervention made by the NHRC in a case relating to the Chakma refugees in Arunachal Pradesh and Tripura is also noteworthy. It has also intervened effectively in several cases of illegal detention of the Sri Lankan refugees in Tamil Nadu.<sup>22</sup>

In the absence of a legal framework, the status of the Sri Lankan Tamil refugees in India is 'ambiguous'. Though they do not have formal refugee status, they are referred to as refugees and not asylum seekers. They have been recognized as refugees in various documents, like refugee certificates for students applying for admissions to Colleges and Universities. The other point to be noted in this connection is that in the absence of any legal framework to this effect, the Sri Lankan Tamil refugees are accepted as *de facto* refugees and the policy of *non-denouement* is not applied.<sup>23</sup>

### **Administrative Mechanisms in India**

Despite the fact that India does not have an organized legal framework to deal with refugees, there has been an organized administrative mechanism set up for the Sri Lankan refugees. The Government of India accepted them with the legal framework prevalent in the country. The Government of India and Tamil Nadu made certain administrative decisions to facilitate the procedure. They were accorded humanitarian and sympathetic response. The Directorate of rehabilitation is in charge of managing the refugees.<sup>24</sup> The Home Department in close coordination with the External Affairs Ministry deals with the incoming refugees. The External Affairs Ministry is involved because the refugees are covered under the Foreigners' Act. The Home Department is headed by a Secretary of the Government of India, who holds the rank of the Chief Secretary of a state government. He is

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<sup>22</sup> The NHRC had taken a positive step in the case of Chakma and Hajong refugees on the basis of a complaint by an NGO-people's Union for Civil Liberties (PUCL). The NHRC not only sent an inspection team to Arunachal Pradesh and when the state government did not cooperate they even filed a writ petition in the Supreme Court. The Court granted interim non-expulsion to the refugees. In its judgment in January 1996, the apex court recognized the threat to the life and personal liberty of the refugees and upheld that the rights to life as enshrined in Article 21 is applicable to citizens as well as non-citizens and upheld that the state shall ensure the protection of life and liberty of Chakma refugees in India, if necessary with the help of Para-military force.

<sup>23</sup> *ibid*

<sup>24</sup> The Department was started in 1941 by the British Government to deal with the Burmese (now Myanmar) who migrated between 1940-44.

assisted by a Joint Secretary, two Department Secretaries, one Desk Officer and a team of assistants to deal with refugees coming to India.

On arrival at Mandapam camp, the 'Q' branch interviews the refugees. Their papers are thoroughly examined to the satisfaction of the police to ascertain that they have no connection with militant groups. They are either sent to 'special' camps or accommodated in Mandapam camp itself. Within the camp, they are allotted a quarter. They are given money for meals at the rate of Rupees 14 per day. Later, identity cards and ration cards are provided so that they can purchase essential commodities at fair price shops. Cash relief is provided at the following rates as per Memo no. 1328 Public (Rehabilitation) Department dated 3.11.97, shows in Table-3.

This amount is paid (Table-3) fortnightly after physical verification of presence of refugees inside camp. In addition to cash doles, they are provided the following:

- (a) Each family is given a set of utensils every two years.
- (b) They are provided saris and dhotis once a year during *Pongal* festival
- (c) They can avail dry rations from fair price shops at the rate of Rupees 0.57 per gram. Each adult is supplied 400 grams of rice per day and children are supplied 200 grams. Sugar and kerosene oil are also provided at subsidized rates.

Apart from these, they are also given medical facilities, primary education, and even money for funeral rites. The Government of Tamil Nadu provides free education and free notebooks. There are tuition centers in camps. Seats are reserved for the Sri Lankan students in colleges. The break up is as follows: Engineering–20 seats; Medicine–10 seats; Agricultural Science–10 seats; Languages–10 seats; Polytechnics–20 seats<sup>25</sup>. The Government of India has so far spent more than 200 crore (Indian) rupees on providing relief facilities to the Sri Lankan refugees.<sup>26</sup>

## **Categorization of Refugees in India**

The Sri Lankan refugees in India are broadly categorized into camp refugees and non-camps. The categorization is based on the socio-economic differences between these two groups of asylum seekers.

### **Non-camp refugees**

Generally, the middle and upper middle class people who can afford to sustain themselves without government assistance have opted to live outside camps. It is difficult to estimate the number of non-camp refugees because most of them have not registered themselves. Estimates vary between 25,000 and 50,000. The Government of Tamil Nadu

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<sup>25</sup> Interview with Selvy Shantha, volunteer in charge of Education, OfERR, Chennai, April 1999

<sup>26</sup> For year wise expenditure on refugees see *Annual Reports*, Ministry of Home Affairs, 1985-2000

periodically issues circulars for non-camp refugees to register at the nearest police station.<sup>27</sup> There are two main reasons behind this: (i) bureaucratic red tapism and response of officials, (ii) Some people prefer to live anonymously in Tamil Nadu, mingling with the local Tamil population. There is an underlying fear that the Government of India or the state government may change their 'open door' policy towards the Sri Lankan refugees and order them back to Sri Lanka. Their legal status makes them feel particularly vulnerable.

Education of their children has been the main reason for their decision to take refuge in India. The volatile situation in Sri Lanka, since 1983, has often affected education. Though there are a number of Tamil medium schools in the state, they insist on sending their children to English medium schools because most of them aspire to go to the West. In fact, non-camp refugees source their income from family members living abroad. Most of them stay in Chennai, Trichy, or Madurai. Some of them have opted to stay in Pudukottai and Coimbatore. They live in middle class localities in these urban areas.

### **Camp refugees**

By and large, there are three kinds of camps in Tamil Nadu—temporary camps, permanent camps and special camps. There are three permanent camps in Tamil Nadu, namely. Mandapam camp in Ramanthapuram, Kottapattu camp in Tiruchirapally and Vingudi camp in Madurai. Permanent camps were constructed even before the current crisis, mainly at the time when Tamils were being sent as indentured labor during the Colonial period. At present, all three permanent camps have a Collectorate Office within the camp premises. This makes the issue of ration and money easier for inmates. Camp facilities are adequate. Each family has a room and a little space outside, which is used as a kitchen. Water supply is adequate. There are well and taps with specific hours of water supply within the camp itself. Electricity is provided (or use of bulb only) between ten at night and six in the morning.

Temporary camps are old buildings—schools, abandoned factories or cyclone shelters which are used to host refugees. Sometimes semi-permanent brick structures with tin roofs and temporary hutments are also constructed for the purpose. Conditions in temporary camps are deplorable. In most cases, there is a large space or hall; each family is separated with the help of mats, or two to five feet brick walls or sheets hung on bamboo poles. The supply of water and electricity and hygienic conditions are poor. At times, as many as two hundred people are forced to use a single bath and lavatory. There is absolutely no privacy in temporary camps.

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<sup>27</sup> There was a circular issued by the Tamil Nadu government which set the deadline for registration as September 15, 1999. But only 1820 had registered themselves. According to the Government sources, there were at least 28,000 unregistered refugees in Tamil Nadu; of which, 10,000 were staying in Chennai and its suburbs. *The Hindu*, New Delhi, September 21, 1999.

There are three special camps in Tamil Nadu located at Madras, Vellore and Chengulpattu. These camps accommodate refugees who have been associated with any of the militant groups– the LTTE, EPRLF, ENDLF, EROS, PLOTE and TELO. At the peak of the conflict in 1990-92, there were over 2,000 people in five special camps. The five camps were: (1) Puzhal camp in MGR East District where EPRLF, PLOTE, TELO, ENDLF, EROS and CVF<sup>28</sup> members and sympathizers were kept, (2) Vellore, North Arcot, Ambedkar District for the LTTE, (3) Pudukottai, for TELO members, (4) Thammampatti, Athur Police station, in Salem District, and (5) Saligramam camp near Madras for TELO. The following table gives details of the ‘special’ camps in Tamil Nadu during the period. Table-4 provides the camp wise physical status of refugees, with sex wise and age wise break-up.

Militant refugees who had specific charges against their names were sent to ‘special’ camps. Sometimes people who did not register themselves were also held under Foreigners’ Act and sent to these camps. At present, there are approximately two hundred people living in these camps. Camp conditions are very poor. Four people are kept in eight by eight rooms that also serve as kitchen and bathroom for the inmates. Only one bucket of water per day is provided for all four inmates. These camps are like jails, with extreme restrictions on entry and movement of people.” It is inaccessible to family members of inmates. There are restrictions even on receiving and sending letters.<sup>29</sup>

### **Role of the UNHCR and NGOs in the Management of Refugees**

The UNHCR has a limited mandate in India. It does not have access to the camps in Tamil Nadu. The Government of India has not even accepted funds from the UNHCR. The Government of India has also not been NGO-friendly. Foreign funded NGOS have been specially kept out of bounds, because they follow an agenda, which may be in contravention to India’s national interest and specific foreign policy concerns. It is feared that NGOs could lead to the formation of pressure groups, which may be working at cross-purposes with the aims of the Government of India. (It would be interesting to note that certain sections of the majority of the Sinhalese population, which are

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<sup>28</sup> Civilian Volunteer Force (CVF) was set up by the North-Eastern Provincial Council in 1988-89. They were supposed to get police training and absorbed in the regular Provincial Police. Recruitment for the CVF was by and large from the militant organizations like the EPRLF, TELO, PLOT, and ENDLF and civilians. But since the Provincial Council collapsed, they were not absorbed into the regular police force. The LTTE, at that time, considered those who were working for the Provincial Council as traitors to the CVF. These people fled to India and were kept in ‘special’ camps.

<sup>29</sup> These are the views expressed in an interview with Muthu who was wrongly kept in a ‘special’ camp in Vellore for three years and also Dr. Selvam whose son is still in ‘special’ camp in Vellore. Neither he nor his wife is allowed to visit him.



highly opposed to the role and activities of NGOs and Humanitarian Agencies in Sri Lanka, quote India's policy to assert their point). The Government is making conditions difficult for NGOs to enter into camps, and even relief items collected by them, were routed through local revenue officials. This deprives refugees of much needed help and makes the system less transparent. Organizations that are active in the field and aware of issues at the ground level could provide a wide range of services for the uprooted, give them psychological counseling to cope with stress, and also help publicize their problems. A comparison with the situation in Sri Lanka shows that, despite having much more access, there are still more problems in Sri Lanka, A few NGOs that are working in the area are:

### **Organization for Eelam Refugee Rehabilitation (OfERR)**

This organization is run by the refugees themselves and is headed by Mr. S. C. Chandrahasan.<sup>30</sup> The organization started as a group trying to help student to secure admissions to local colleges and educational institutions. It has now diversified to into a number of important areas like health, nutrition, psychological counseling, vocational guidance and other issues. It supplements what the government offers to the refugees in terms of food, shelter and other opportunities. It also takes up problems and specific issues of protection with the government and tries to gain concessions wherever possible. So far, they have managed to get quotas in colleges. The OfERR has its head office in Madras and three zonal offices in Trichy, Tirunelveli and Eroad. Volunteers are from within the refugee community, except for a few professionals who are local Tamils. It must be mentioned that the OfERR does not have access to Mandapam camp and its volunteers are not allowed to function in areas close to 'special' camps.

### **Jesuit Refugee Services (JRS)**

The JRS has been working for the refugees since the beginning of exodus. In the initial years they helped put sheds, providing essentials like mats, water, pots and so on. In some camps, extra hutments were constructed. Since the JRS has diversified its activities. They have been active in the field of education, vocational training, sports and cultural activities, and counseling. They have also been conducting training programs for stress management for volunteers belonging to the refugees. Volunteers can get direct access to refugees whenever required. Several schools have also been started in camps with the help of JRS. Books and study material are also provided in these schools.

An Assessment of the management of the Sri Lankan refugees brings to light certain crucial points. One, despite the fact that India has not signed the 1951 Convention or the 1967 Protocol, Sri Lankan asylum seekers have been accorded refugee status. However, since there are no specific legislations on refugees in India, their position remains

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<sup>30</sup> Mr. Chandrahasan is a lawyer and son of the founder leader of the Federal Party (later TULF), Mr. SJV Chelvanayakam.

vulnerable. They live under constant fear of being repatriated at any time. According to S. C. Chandrahasan, “any legal framework can be of help to the refugees. At least they will not be under the constant threat of being put under the Foreigners’ Act.”<sup>31</sup> Despite these limitations it needs to be mentioned that “asylum commitments are perhaps more generous in India than anywhere else in Asia.

Regarding camp conditions, it needs to be mentioned that it is generous on the part of the Government of India to provide rations and other amenities to the uprooted people. However, the total amount of money given to each family, which is around Rupees five hundred per month, is not enough to sustain the entire family. There are inordinate delays in receiving the money and at times highhanded behavior of Government Officials. Even if one member of the family is on present at the time of distribution, none of them are given a ration. Though there are practical difficulties, at a policy level, India has not withdrawn relief benefits even at any point. As mentioned earlier, the situation in temporary camps is appalling. It is unhygienic and unsafe to live in such deplorable conditions. However, refugees are forced to stay in the absence of any alternative. Conditions in special camps too are worse.

Officially, refugees do not have the right to work in India. Most of them are therefore unemployed. Those who work in the unorganized sector are often exploited by their employers and paid lower wages than regular rates.

Though the Government of Tamil Nadu has consciously tried to reunite uprooted families, and camps are allotted accordingly, minor gaps still remain. This is mainly because the refugees are unable to locate where their relatives are.<sup>32</sup>

Sri Lankan Tamil refugees in India are resigned to their fate. Since they live in an alien land, they do not have many expectations.<sup>33</sup> Such feelings have gained ground particularly in the period after Rajiv Gandhi’s assassination in 1991.

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<sup>31</sup> S.C. Chandrahasan in an interview with the researcher in Chennai, April, 1999

<sup>32</sup> Valli lives alone since her husband passed away in an accident in 1995. Her younger son Suresan and his family had sent her information that they had reached India in May 1998, but for the last one year, when the researcher met her in April 1999, she could not trace them.

<sup>33</sup> *Nangal anniya naaddil valkirom, eppadi nangal vasathikalai ethir parka mudiyum?* We are living in an alien land, how can we expect anything? Several respondents in a focus group interview in Mandapam camp expressed this view.

## **Host-Refugee Relations**

Relations between the Sri Lankan refugees and the local Tamil population have been dynamic. It is true that the ethnic factor has acted as a cementing force between the hosts and the guests in the initial years, but the picture has changed substantially since then. In fact the response of the government and civil society has changed in every phase of exodus. In the first phase in 1983, the local Tamil people had demonstrated with placards demanding security for the persecuted Tamils across the Palk Straits. Upon arrival, they were accorded a warm welcome. The Central Government as well as the state government geared up the administrative machinery to accommodate the incoming refugees. By the end of the eighties, the situation had begun to change, the warmth had been waning and host fatigue had begun to set in. Local people were also wary of the internecine warfare among different Tamil groups in Tamil Nadu. The Central Government gave a general order that incoming refugees be allowed to enter the country and allowed to stay. There were no visa restrictions and deportation was not applied. Schools and colleges admitted students without any hesitation. The state government also reserved seats in professional courses and poly techniques for the Sri Lankan refugees. The assassination of Rajiv Gandhi by an LTTE suicide bomber in May 1991 was the lowest point in host-refugee relations. Every Sri Lankan Tamil was seen as an LTTE cadre or sympathizer. There was friction and hostility from the local population and regular police checks in every house. Special

Measures were adopted by the Tamil Nadu police to keep a regular watch on the activities of all the refugees in camps. They also had informers within camps to keep track of any suspicious movements. Apart from the regular Naval Coast Guards, the state government had deployed its own special force for surveillance on the coastline. The focus of Indian diplomacy also shifted towards persuading Colombo to repatriate refugees. Schools and colleges took tough measures to admit Sri Lankan students and insisted that every student produce a 'no-objection certificate' from the police station along with their application forms. This proved to be a harrowing experience for genuine students. Needless to add, reservation of seats for the Sri Lankan students was also withdrawn. After concerted efforts, it has been restored. Though the warmth of the 1983 is a thing of the past and the suspicion of 1991 is also over, the response of the local Tamils towards the Sri Lankan refugees remains apathetic and indifferent.

The reasons behind the change in host-refugee relations can be broadly summarized as:

### **Security reasons:**

- (a) One of the major concerns of the local Tamil population was the deteriorating law and order situation due to internecine rivalry and violence between the different militant groups.
- (b) There were reports of an elaborate LTTE network operating in and from Tamil Nadu. The LTTE had twelve units in Tamil Nadu.<sup>34</sup>

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<sup>34</sup> (i) Procurement of explosives in Dharmapuri, (ii) Arms and ammunition manufacturing in Coimbatore, (iii) Manufacturing explosive in Salem, (iv) Military uniforms in Erode, (v) A unit in the costal area from where supplies

- (c) The involvement of some students in the assassination added to the deteriorating situation

### **Economic reasons:**

- (a) Since the government had been taking care of the camp refugees and providing them with food, accommodation and basic amenities, they were considered a strain on the exchequer. It must be mentioned that India does not take financial assistance from the UNHCR or any other international donor for the maintenance of refugees. Some local people who were poorer than the refugees felt that the Government had been taking care of the refugees and not its own citizens.<sup>35</sup>
- (b) In certain specific jobs like road construction and domestic help, there was rivalry and competition among the hosts and refugees. According to refugees, they took up only those jobs, which the local population refused to do. But the local Tamil view is that because of the arrival of refugees, wage rates had gone down, as the refugees were willing to work for less money.
- (c) The other economic concern of the host population has been that after the arrival of the refugees, the house rent has increased in urban areas.
- (d)

### **Repatriation of the Sri Lankan Refugees**

An ideal solution in a refugee situation would be repatriation, i.e., the uprooted people could get back and settle in their own homes. However, it is not easy in a conflict like the Sri Lanka. There are two main issues of concern: the rationale and the 'voluntariness' of repatriation. Industrialized countries have been increasingly encouraging repatriation as a solution to the refugee situation. This approach could be 'self-serving' for states, by increasingly applying *non-entrée* policies and closing their doors to refugees.

The second issue relates to the voluntariness of repatriation, which primarily means the will to return. Conditions in the country of origin should be stable enough to ensure the safety and security of the returning population. Though there are no clear-cut guidelines to ascertain these facts, the UNHCR has an important role to play in ensuring that repatriation is undertaken in safety and dignity. Organized repatriation should take into account: (a) The support of refugees in the country of origin as well as the country of asylum. (b) Amnesty for political offence and 'safe passage' for refugees. (c) Arrangement and assistance should form the basis for repatriation, and (d) Mechanisms to

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were sent to Jaffna, (vi) A transit unit in Madurai, (vii) A landing area for supplies from Abroad, located in Nagapattinam, (viii) A recruitment area to recruit militants from the arriving refugees, at the arrival point in Rameswaram, (ix) a communication unit in Thanjavur, (x) A unit in Thutikodi for trade in gold, silver and narcotics, (xi) Liaison unit in Chennai, and (xii) A unit for treating wounded cadre in Trichy.

<sup>35</sup> This fact came to light after discussions with local on Trichy and Mandapam

monitor their safety after return. With this basic overview, let us assess the repatriation of Sri Lankan refugees from India.

Repatriation of refugees has been one of the most delicate issues in recent years. The first phase of repatriation began on December 24, 1987, after signing the Indo-Lanka Accord in July that year. Clause 2.16(d) categorically states: "The Government of India will expedite repatriation from Sri Lanka of Indian citizens to India who are resident there, concurrently with the repatriation of Sri Lankan refugees from Tamil Nadu." The Accord further stated, in Clause 2.16(e) "The Governments of Sri Lanka and India will cooperate in ensuring the physical security and safety of all communities inhabiting the Northern and Eastern Provinces." Later, a Memorandum of Understanding was signed on August 31, 1987 between the Government of India and Sri Lanka to this effect. In this spirit of hope for peace, the first phase of repatriation was initiated and all Sri Lankan refugees were asked to register for repatriation. Between December 24, 1987 and January 1989, an estimated 43,000 refugees were repatriated and sent to Talaimannar.

However, with the resumption of hostilities in June 1990, the process was halted and the exodus to India started once again.

The second phase of repatriation was initiated in June 1991, but was called off in January 1992 because of civil society's allegation of forced repatriation. This time the situation was tense and had deteriorated substantially in the aftermath of the assassination of Rajiv Gandhi. Indian policy towards the refugees had also changed for the worse. An enumeration (of refugees willing to return) was undertaken in July 1991, in which 30,000 refugees expressed their willingness to return. Due to complaints by the refugees as well as irregularities in the process, a second enumeration was done in December 1991. The number of refugees agreeing to return was reduced by half. It must be mentioned here that in the second round, the forms were circulated in English as well as in Tamil. The voluntariness of repatriation was questionable in this phase and there were complaints that the refugees were being coerced to go back. Though there were no specific policy decisions adopted to that effect by the Government of India, the political atmosphere was tense and the refugees were made to feel unwelcome and unwanted. Some of the 'push factors' that induced return were as follows.

Returnee forms were issued in English, which most of the camp refugee did not understand. It did not give an optional clause so as to confirm voluntariness of return.

Refugees were given a short notice to return, sometimes less than three to five days to proceed to transit camps from where they would proceed to their country.

Some misinformation strategies were also adopted and news items were read out to show that the situation in Sri Lanka was improving.

Ration cards were withdrawn from several camps. Special quotas for refugees in educational institutes were also removed.

Repatriation was resumed in January 1992 and up to June that year 23,000 refugees were repatriated. Most of them were from the 132 camps in Tamil Nadu. Repatriation was voluntary in the first two months. However, by March doubts arose that people were being coerced to leave as per directives from New Delhi. Repatriation was halted once again and resumed in August 1992 after a Memorandum of Understanding was signed between the Government of India and UNHCR in July that year. The Madras office of the UNHCR was set up to facilitate repatriation. It was given a limited role and was permitted to interview refugees in order to ensure the voluntariness of return. But refugees could be interviewed only after they had boarded ships for departure or upon reaching Sri Lanka. In the first two days the repatriation was initiated according to plans but was halted a week later following a complaint by forty eight families in Mandapam that they had been forced to repatriate.

The third phase of repatriation began on August 13, 1993 after a Court order<sup>36</sup>. Consequently, 6,927 refugees were repatriated to Trincomalee in seven trips by ship up to September 7. The UNHCR conducted interviews with 70 percent of the returnees in Madras And later Vavuniya and Trincomalee. Refugees were from Vavuniya, Trincomalee, Mannar Island and Delft. However, only 3,308 i.e. 47.8 percent were able to return home or to friends and relatives.<sup>37</sup> The rest, 3,519 i.e. 52.2 percent could not return.<sup>38</sup> Repatriation from India continued in 1994. Between January 28 and February 19, 3,575 refugees reached Talaimannar Pier by ships, 2,700 returnees were from mainland areas under government control. There were more than eight hundred (858 to be precise) refugees from the areas that remained under the LTTE control. They could not go back home and had to be accommodated in refugee

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<sup>36</sup> The Madras High Court passed a Judgment on August 27, 1992 in *P. Nedumaran and Dr. S. Ramdoss v Union of India and the State of Tamil Nadu*, stating, “In so far as the consent of refugees is concerned, when there is a world agency to ascertain whether the consent is voluntary or not, it is not for this Court to consent whether the consent is voluntary or not. Nothing has been suggested against the competence or impartiality of the representatives of UNHCR in ascertaining the willingness of the refugees to go back.”

<sup>37</sup> *Repatriation of Refugees from India to Sri Lanka, 13<sup>th</sup> August to 17<sup>th</sup> of September 1993*, Executive Summary, UNHCR, Colombo, pp.1-2

<sup>38</sup> It was observed during field research in April 2000, that some of these refugees were still residing in the Alles Garden camp in Trincomalee even after seven years.

camps on Mannar Island.<sup>39</sup> Repatriation continued in September when 4,572 refugees were able to return in three batches by ship to Trincomalee. According to the UNHCR, 52.5 percent of them were wither resettled or relocated. This was the last batch of organized repatriation from India. Since then, the process has been completely halted.

The process of repatriation of Sri Lankan refugees from India indicates three points. One, repatriation in the second and third phases was not entirely voluntary. Apart from the government pressure exerted on them, refugees also felt psychologically intimidated by the hostile response of the local population after the assassination of Rajiv Gandhi. Two, the role of Madras High Court was exemplary in setting a precedent for the protection of refugees. Three, considering the fact that the situation in Sri Lanka was so volatile, repatriation should not have been initiated at all. A large number of refugees belonged to the LTTE controlled areas to combat-zones. It was therefore a foregone conclusion that the resettlement of all these people was not possible or feasible. The UNHCR as an impartial body with a presence in Sri Lanka as well as in India could have anticipated the ineffectiveness of repatriation at that point of time.

## Conclusion

The above discussion brings to light certain key points. The Sri Lankan refugees fleeing their country have found it expedient and accessible to seek asylum in India. Apart from the geographical contiguity and cultural affinity, the strict policies against refugees in the Western countries have increasingly drawn them towards India. However, since the arrival of the first batch of refugees in 1983, the situation has changed substantially. In the recent years, the arrival of refugees has been in smaller batches of forty and fifty people, as against the massive influx in the eighties and early nineties. The reasons for this can be located in the lukewarm response in India and also the politics of keeping the refugees within the island itself. Strict and sever naval patrolling has resulted in the death of many refugees when boats carrying refugees have been shot down. This has further accentuated their problems. Though the Government of India has not applied the policy of *non-denouement*, in the absence of a legal mechanism, the status of refugees in India remains vulnerable. For the Sri Lankan refugees living in an alien land, "life as a refugee is lamentable. But at least there is life. It is better than being dead at home." This testimony of a refugee in Tirunelveli encapsulates the trauma of Sri Lankan Tamil refugees in India. They are displaced; they have fled their home under terrible conditions to a country where they are treated with apathy.

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<sup>39</sup> Repatriation of Refugees from India to Sri Lanka, 28 January to February 1994, Executive Summary, UNCHR, Colombo, p.1

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## Appendix

**Table 1:** Sri Lanka Refugees Population as on 31/12/1999

Country / territory of asylum	Number	Percentage
India*	66,400	56.18
France	15,900	13.45
Canada	9,700	8.21
Germany	9,200	7.78
United Kingdom	8,300	7.02
Switzerland	4,300	3.64
Norway	2,300	1.95
Netherlands	2,100	1.78
Other	2,500	2.12
Total	118,200	100.0

Notes: Number of refugees estimated by the UNHCR, based on the arrival of refugees. These exclude the resettled refugees. (\*) include camp refugees only.

Source: *The State of the World's Refugees*, (Oxford: OUP/UNHCR, 2000), p.318.

**Table 2:** Camp Population of Sri Lankan Refugees as on 31.01.1999

Sl. No.	District	No. Of Camps	No. Of Families	Children					Adults				Total No. of Persons	
				8 Years & Below		Between 9-11 Years		Total	Between 12-17 Years		18 Years & Above			Total
				Male	Female	Male	Female		Male	Female	Male	Female		
1	Kancheepuram	9	383	128	108	43	39	318	107	104	430	386	1027	1345
2	Thiruvallur	2	908	207	210	282	286	985	201	198	1080	995	2474	3459
3	Cuddalore	7	347	116	107	63	52	338	135	120	374	343	972	1310
4	Vilupuram	3	262	109	99	31	36	275	111	100	311	275	797	1072
5	Vellore	9	1099	464	422	122	119	1127	371	345	1182	951	2849	3976
6	Thiruvannamalai	16	875	253	247	142	165	807	273	288	1075	979	2615	3422
7	Salem	8	646	268	272	73	56	669	177	165	708	625	1675	2344
8	Dharmapuri	13	936	343	320	133	121	917	340	328	1030	968	2666	3583
9	Namakkal	2	357	121	96	112	129	458	267	149	138	180	734	1192
10	Erode	4	1052	344	374	170	151	1039	440	378	1184	1039	3041	4080
11	Coimbatore	8	779	252	238	145	121	756	258	296	906	828	2288	3044
12	Thiruchi	2	766	251	258	98	122	729	264	236	846	800	2146	2875
13	Karur	2	593	194	183	69	76	522	236	247	675	640	1798	2320
14	Perambalur	1	73	28	26	8	11	73	24	21	76	80	201	274
15	Pudukkottai	3	909	230	203	161	181	775	329	310	723	687	2049	2824
16	Madurai	4	1319	424	399	185	175	1183	581	514	1333	1274	3702	4885
17	Dindukkal	8	846	275	262	122	135	794	324	309	992	870	2495	3289
18	Ramanathapuram	1	1824	516	467	248	238	1469	393	340	1756	1572	4061	5530

	ram													
19	Sivaganga	7	913	303	313	96	124	836	370	365	912	919	2566	3402
20	Virudhunagar	6	879	272	250	160	138	820	194	196	1179	1067	2636	3456
21	Thoothukudi	3	347	109	125	55	59	348	112	85	458	430	1085	1433
22	Thirunelveli	8	779	195	191	118	165	669	290	277	782	793	2142	2811
23	Kanyakumari	4	271	101	109	27	33	270	96	79	287	264	726	996
24	Chennai	1	2	0	0	0	0	0	0	0	2	0	2	2
	Total	131	17165	5503	5279	2663	2732	1617 7	5893	5450	1843 9	16965	4674 7	62924

Source: OfERR, Chennai

**Table 3:** Cash Relief Provided to the Sri Lankan Refugees in Tamil Nadu

Size of Family	Amount Paid Per Month (in Rupees)
(i) First adult member	200
(ii) Second and subsequent adult member	144
(iii) First child in the family	90
(iv) Second and other children	45

**Table 4:** Numbers of Refugees in Special Camps in 1991

Location	Special Camp	Militant Group	No. of Families	Adult		Child		Total
				Male	Female	Male	Female	
Vellore, North Arcot Ambedkar District	Police Recruits School (Inside Vellore Fort)	LTTE	147	451	178	101	75	805
Puzhal, Chengai MGR District	Part of the New Jail Building, Puzhal	EPRLF	543	585	217	106	94	1002
		PLOT	22	21	5	1	6	33
		TELO	21	21	8	4	7	40
		ENDLF	2	2	0	0	0	2
		CVF	2	2	0	0	0	0
		EROS	3	3	0	0	0	3
Pudukkottai	Borstal School, Pudukkottai	TELO	162	162	8	4	6	180
Thammampatti, Athur, Salem District	Regulated Marketing Society, New Building, Thammampatti	ENDLF	25	74	15	8	11	108
Saligramam, Madras		TELO	5	5	-	-		5

Source: Jesuit Refugee Service, Dindukkal, 1992