



CIVIL WAR AND FORCED MIGRATION FROM SRI LANKA – A HISTORICAL STUDY

Dr.A.Bharathiraja

Assistant Professor

PG and Research Department of History

V.O.Chidambaram College

Thoothukudi - 628008

Introduction

Sri Lanka is a small, multi-ethnic and low income country located at the southern tip of the Indian subcontinent and 22 miles south-east of Tamil Nadu the south most state of India. The proximity has led to close historic and cultural ties and population migration over the centuries. In 1997 it had a population of 19 million and per capita income of US 750. The country achieved great success in the areas of education, health and nutrition with standards comparable, to those of much richer countries and above those of its super-continental neighbours. According to Sri Lanka's Census of Population and Housing 1981, the Sri Lankan population is dominated by two major ethnic groups, the Sinhalese and the Tamils. The Sinhalese (mostly Buddhists speaking Sinhala and belonging to the Indo-Aryan family) comprised 74 percent of the total population. They predominated all parts of the country except the north-eastern provinces. Tamils (mostly Hindus speaking an Indo Dravidian language) comprised 18 percent of the population they live mostly in the north-eastern parts of the country such as Mannar, Vavuniya, Kilinochchi, Jaffna, Mullaitivu, Trincomalee and Batticaloa.

Background History of Sri Lankan Tamils

In the beginning 1920s, cash-crop plantations are established in Sri Lanka during the British colonial rule. Due to insufficient local labours, one million Tamils are brought to Sri Lanka by the British from Tamil Nadu in the nineteenth and twentieth century's to work in coffee, tea and rubber plantations. The workers purchased from India are settled in the north-eastern parts. 87 Descendants of the Tamils live in barrack-like, "Line rooms" with two or three generations of a family.

Housing and working conditions often without basic facilities such as health, education and water supply. Their living and working conditions remind marginal.³ When Sri Lanka gained independence from British rule on 4th February 1948, many believed that the nation had the best chance of making a successful transition to modern statehood. But the situation of the plantation, Tamil became worse when over a million of them were made stateless in 1948 by the citizenship act by the first government of independent Sri Lanka.

Their franchise rights were also removed in 1949 by an amendment to the election laws. Ethnic tensions emerged between Sinhalese and Tamils after Sinhala was declared only official language in the country in 1956. Moreover, the Tamils alleged that they were discriminated against in many matters such as higher education, public sector employment, land colonization and public investment in the government system. These factors led the Tamils to lose their confidence in the state and they would not obtain justice from political establishments of the Sinhalese Leaders. Such beliefs among the Tamil youth led to the emergence of some violent political movements, particularly the LTTE in 1976 with the aim of creating a separate state (Tamil Eelam) in the north – eastern regions.

A notable development out of this movement was a new approach to challenging the Sri Lankan army in north - eastern regions. After long drawn negotiations, India and Sri Lanka signed two agreements in 1964 (Indo-Cylon agreement of 1964 or Srinavo-Shastri pact) and 1974, Srinavo-India pact to repatriate 600,000 Tamil people of Indian origin to India. The agreements envisaged granting of Sri Lankan citizenship to 3,75,000 plantations Tamils.

The agreements had been conducted without consultation with the people or their representatives. The people mostly 88 employed in the tea and rubber plantations in Sri Lanka for several generations, were required under the agreements to apply for either citizenship. J.R. Jayewardene's Sri Lankan government had strengthened the military force in the north – eastern provinces due to increasing Tamil militant violence in the region. On 23rd July 1983, severe ethnic violence broke out in Sri Lanka against the Tamils due to the killing of 13 soldiers by a group of the LTTE at Thirnelveli in the Jaffna district.

In retaliation, 53 Tamil militants who were incarcerated in Colombo's major prison at Welikade were killed during 25 -27 July 1983. The murders supposedly committed by Sinhalese prisoners in the same jail with the help of the jail guards and prison authorities afterwards, the Sinhalese rebel attacks on Tamils started in Colombo and then spread to other parts of the country.

These incidents marked the beginning of the first phase of the Eelam war between the Sri Lankan army and the LTTE. During the riots in July 1983 the Tamils suffered worst and faced with practically insurmountable difficulties and troubles from the Sri Lankan Army as well as from their own militant brothers. It strongly exacerbated the insecurity of the Tamils and placed Sri Lanka on the map of forced exodus of „Refugees“. The Eelam war in Sri Lanka had three more phases. In mean while the Indian government organised the repatriation of refugees to Sri Lanka when the situation in Sri Lanka improved. The four phases of the Sri Lankan arrivals are described in the following pages.

Sri Lankan Refugees in Tamil Nadu given ID cards

Tamil Nadu police authorities, from a security point of view, have been following steps to issue identity cards Sri Lankan refugees living in the various camps in Tamil Nadu for 12 years or longer. The issued ID cards would carry various details, including their date of arrivals and places of stay in Tamil Nadu. Reports said that the Id cards would not be issued to those Sri Lankans who were staying outside the refugee camps

Tamil Nadu: A Preferred Destination

Sri Lankan Tamil Refugees took readily to moving into Tamil Nadu in South India because the language spoken there was quite similar to their own dialects. In addition, like the great majority of Tamils in Tamil Nadu, the greater part of the Sri Lankan Tamil refugees were also Hindus. However, even the smaller section of Christians are among the refugees found themselves in not-sostrange surroundings because they found similar Tamil Christians in the state. In effect, linguistic and religious affinities made Tamil Nadu familiar territory for the Tamil refugees ever since they fled their homes, mostly in the north and East of Sri Lanka. In 1983, when between 27,000 and 30,000 Sri Lankan Tamils found sanctuary in Tamil Nadu, the majority of them had lost their homes and most of their possessions in the communal riots back home. Yet, most of them still 96 managed to retain sufficient resources, or contacts, to enable them to live outside the refugee camps.

The Tamils of Sri Lanka have had a long history of friendly contacts with the Tamils in India, and many of them had relatives in Tamil Nadu. This was another reason that induced them to choose Tamil Nadu as their heavens, particularly cities like Chennai, Tiruchirappalli and Madurai. Indeed, two-thirds of those who arrived between July and December 1983, or approximately 20,000, were upcountry, plantation Tamil people, and only the rest, about 10,000 Tamils, were those described as “Sri Lankan Tamils” and hailed mainly from Colombo.

A smaller number came from Jaffna and the other districts in the north and the east. The immediate influx consisted of those who arrived by air or ship. Throughout 1983, regular ferry transport plied across the Palk Straits between Talaimannar in Sri Lanka and the Indian Port of Rameshwaram. However, in later years, the ferry service stopped. People then began to cross the sea in any boats they could find and began heading for any of the ports on the eastern coast of Tamil Nadu that they were able to reach.

Classification of Sri Lankan Refugees

The Sri Lankan refugees in residence in India can be sub-divided into three categories. These are:

- (a) Camp Refugees
- (b) Non Camp Refugees who in turn can be subdivided into two divisions– the first being the Sri Lankan nationals living in Tamil Nadu who registered their presence with the local police when asked, and the second group is the Sri Lankan nationals living in Tamil Nadu illegally, after the expiry of their visas. The former group can be termed noncamp registered Sri Lankan Tamil refugees and the latter would then be 97 appropriately called the non-camp unregistered Sri Lankan Tamil refugees.
- (c) Sri Lankan Tamil Refugee militants detained in special camps. It is essential to keep in mind the differences in both the definitions and the legal status of the three categories of refugees. Unfortunately, the government, political leaders, and the Non-Governmental Organisations use the term refugee as a common and interchangeable term, leading to numerous problems. It is created not only a whole world of semantic confusion, but also added and worsened administrative and legal bottlenecks. For example, in an interview with the City Express, even Chandrahasan, the founder of the organisation for Eelam Refugee Rehabilitations (OFERR), clubbed the three categories together and referred to all of them as refugees.

Sri Lankan Nationals living in Tamil Nadu

This category defines the Sri Lankan Tamils who belong to the well to do sections of Sri Lankan society. A few of these Sri Lankan Tamils had originally come to India on tourist visas, issued by the Indian High Commission in Colombo. They continued to stay in India even after the expiry of the visa period, however. A few others had made use of Tamil Nadu as a Transit Point for moving into greener pastures like Canada and other European countries. Following the assassination of erstwhile Indian Prime Minister Rajiv Gandhi, the Government asked the Sri Lankan Tamils to register their presence with the nearest police station. The police began to interrogate those who had not registered which resulted in the detention of 1,800 Sri Lankan Tamils under the foreigners Act of 1946.

In 1999, the Government of India asked all the Sri Lankan Tamil nationals in Chennai, who had arrived between January, 1983 and 31st December, 1992 to register their presence with the immigration office 98 before 31st August 1999. According to informed sources only 1,943 Sri Lankans have registered and the number registered was a figure far below the actual number of Sri Lankan Tamils who had been taking shelter in Tamil Nadu. These Sri Lankan Tamil Nationals in Tamil Nadu were estimated to be around 80,000.

Non Camp Refugees

It is estimated that approximately 20,667 (as per „Q“ branch Report) non-camp refugees have been residing in various parts of Tamil Nadu alongside the local Tamil population. This information is obtained from the office of the Department of Rehabilitation, Government of Tamil Nadu. These are the people who had entered India via Rameswaram, seeking refuge in Tamil Nadu. After registering, post clearance, in the Mandapam transit camp, they opted to stay outside the Government maintained refugee camps for personal reasons. For example, many had the option of living with distant relatives or kinsfolk in Tamil Nadu, and others had an aversion to living in a restricted area assigned to the refugees by the Government. In addition, some of the refugees are rich and resourceful, with close connections with rich relatives in Tamil Nadu. They are interested to lead a luxurious life and hence they are not inclined to live in the restricted refugee camps organised by the Government of Tamil Nadu. These people did not receive any relief assistance from Government of Tamil Nadu except the education facilities offered to the refugee children by the Government.

Sri Lankan Militant Tamil Refugees detained in Special Camps

This category defines the people who had been detained in special camps because of their involvement in militant activities. Though the inmates were not technically and legally prisoners, their plight had been worse than those prisoners who were convicted and sentenced to specific terms of 99 imprisonment. In 1992, 1,629 militants were staying in five special camps in Vellore, Pudukkottai, Salem, Chengalpattu and Chennai. By the end of the year 2003 there were 150 Sri Lankan nationals in three special camps namely: (1) Thirty four prisoners in Tipu Mahal, Vellore Fort; (2) Ninety eight in Chengalpattu and (3) Eighteen in Melur under Section 3(2)(e) of the foreigners Act of 1946. They were all being housed in these places with a view to restricting their movements. According to the members of the Peoples Union of Civil Liberties (PUCL) team, which visited the

special camp at Tipu Mahal, Vellore, in July 1999, the security arrangements are more stringent than measures in any of the Central Prisons in the state.

The Sri Lankan Tamil Refugees who are lodged in the special camps are those who are thought, or seen, to be involved in criminal cases, including under trials or accused out on bail, and those who are released after the disposal of such cases. There are also those with other, adverse reports such as reports of involvement in smuggling and criminal activities, and the members of the families of these accused or proven criminals. Having restricted their movements, the government had to supply them with all possible facilities. They are provided with cooked food at the rate of Rs. 35 for an adult and Rs. 20 for a child, per day. All other basic amenities are also provided for in the camps. Another set of militants, against whom there are no specific charges, are permitted to leave the country at their own cost and given the right to choose their own destination. According to informed sources in Colombo, many such militants, belonging to non-LTTE groups, have gone back to Sri Lanka.

Camp Refugees

There are 65,940 registered destitute Sri Lankan refugees dwelling in 132 refugee camps situated in different parts of Tamil Nadu as on 30.04.2005. 100 When destitute seekers of solace began to leave the land of their ancestors, they are forced to do so in the dark of the night. In order to survive, to exercise the fundamental right of mere existence, they had to reach the shores of the Indian Coast either by launch, fishing boat, or catamaran. These unfortunate men have sought the help of the human peddler or the agents who ferried them across the Palk Straits to Indian soil. These agents are known to have extracted a fee of Rs. 500 to Rs. 1,000 per person they transported during 1983 which was later raised in tandem with the increasing stringency of both the Sri Lankan and Indian forces patrolling their coastal lines. The reason for the high prices was that the work was fraught with danger, and the boats themselves are in the danger of being confiscated if they are captured by the military authorities of the respective countries.

It is stated that the price increased to Rs. 10,000 to 15,000 per head to be paid to peddlers for taking refugees safely to Indian soil over the years. It was paid, because refugees wanted desperately to protect their property from confiscation and to save their women from molestation by the unscrupulous men of the Sri Lankan army and liberation tigers of Tamil Eelam. According to a Sri Lankan Tamil journalist, a few mechanised boats from Tamil Nadu smuggled scarce commodities to Sri Lanka and on some occasions would try to bring refugees with them for a good fee. They dropped anchor at nackiguda, vallaipadu and other spots between Pooneryn and Mannar for this sort of illegal activity.

It was mostly Sri Lankan fisherman who would ferry refugees to India, and often, the peddlers simply left them on a small island in international waters, in the middle of the sea, for the Indian patrollers to take note of them. At other times, they would be left in the lurch, without adequate supplies of food and water, for days on end. As a result, the weak and the young among the refugees often suffered the most. Often they would be dropped into the water 10 or 15 Km from the shores and told to swim to the 101 shore, so that the peddlers could escape easily, without being caught and arrested by Indian navy officials in short, the journey of the desperate

refugees to reach Indian shores was replete with hazardous and dangerous experiences.

Reception and Registration of Refugees in Tamil Nadu

The refugees reached Indian territory all at once they were stopped by Indian security men and interrogated with them it is done immediately on arrival, and the local Police inspector conducted an enquiry to ensure whether they are genuinely affected by the ethnic problems and had arrived in India to save their lives. After this enquiry by the local Police Inspector, the police authorities of „Q“ branch would screen the refugees in cooperation with the intelligence bureaus to segregate the militants, if any, mingled along with the refugees, and to check the bona fide antecedents of the refugees. After these screenings by the police authorities the revenue officials registered the personal details of the refugees such as the name of the refugee, their occupations, addresses in Sri Lanka, etc., in the admission register. This was done after they had verified the documents, if any, that the individual had brought with them. Normally the individuals had identification cards, family cards, school cards etc but if they did not possess any of these things, police authorities verified other available sources of evidence to confirm the genuineness of the details given by the refugees, after which they were photographed to record the identity of each member and the photo was affixed to the identity card.

As per instructions issued by the Government of India, a quantitative camp had been opened with in the complex of the Mandapam camp, where the refugees arrived in larger numbers. This camp had been functioning at „Door No. 226, Old Block“, from August 2000 onwards. Fresh refugees arriving in India are kept in quarantine for a limited period, not exceeding 30 days, and 102 only after completion of the process of verification of their antecedents were they shifted to the normal camps around the state³⁸. During the verification process, if a member of LTTE or its splinter groups or smugglers and such came to their notices, action was taken to lodge them in the special camp to restrict their movement and safeguard the security of the state under Section 3(2) (e) of foreigners Act of 1946

Repatriation of Sri Lankan Refugees

Tamil Nadu was initially considered a safe haven for these refugees because of its geographical and ethnic affinities with the Tamil Majority regions of Northern and Eastern Sri Lanka; and for several years, the Indian government accepted the influx of refugees. But due to pressure on the centre from the State Government, again the programme of Registration and Repatriation commenced in 1992.

Those who applied for Indian citizenship began in 1968 and was suspended in 1983 following large-scale violence against the Tamil community in July and August 1983 in Sri Lanka. By then over 460000 people had been repatriated to India and 260000 granted Sri Lankan citizenship. Under two laws introduced in 1986 and 1988, the remaining stateless Tamil people are granted Sri Lankan citizenship

According to the UNHCR, 54,188 refugees are voluntarily repatriated to Sri Lanka by chartered ships and flights between 20 January 1992 and 20 March 1995. However, during the same period of time, there are certainly many forced repatriations as well, and even the voluntary ones were often a result of the increasingly harsh treatment meted out to the refugees in the various camps. This is a blemish on India's social record of internal non-harassment. After negotiations, the UNHCR is managed to get the government to grant it access 103

to the refugees at the point of departure in the transit centers, although its officials are not permitted to visit the refugee camps per se.

The recent progress made in the peace process in Sri Lanka has, however, prompted some of the refugees to return voluntarily – the official estimate is that about 1,000 refugees returned from India to Sri Lanka between January and December, 2003 assisted by U.N.H.C.R. It is also estimated that some 4000 refugees are also returned to Sri Lanka in the same year. Ironically, the Government takes pains to prevent „illegal crossings“ which are often hazardous; and permits are required before a refugee can legally go back⁴¹. On 29 July 1987, India and Sri Lanka signed an agreement to establish peace and normality in Sri Lanka. Article 2.16(D) of the Accord, stated that the Government of India would expedite repatriation from Sri Lanka of Indians who are resident there concurrently with the repatriation of Sri Lankan refugees from Tamil Nadu. In an annexure to the agreement the Prime Minister of India also agreed to deport all Sri Lankans citizens who are engaging in terrorist activities or advocating separatism. The Sri Lankan Government and UNHCR signed a memorandum of understanding on 31 August 1987 under which UNHCR agreed to provide rehabilitation assistance to refugees and the displaced in Sri Lanka.

By 31 January 1987, 128564 refugees had come into India. Of these 34,429 persons who were destitute were admitted into refugee camps. 171 temporary camps were setup in Tamil Nadu for the accommodation of these refugees. Of these, 9,350 voluntarily left the camp after admission. The population of refugees in various refugee camps in Tamil Nadu at the time of the beginning of the repatriation process was about 25,000. They are ready to 104 return to their homeland soon after the announcement of the July 1987, „ Accord“ between India and Sri Lanka. As per the agreement, all Sri Lankan Tamils in India are asked to register for repatriation⁴⁴. This was the first time an organized repatriation drive is attempted for the Sri Lankan Refugees residing in Tamil Nadu. In this first attempt at repatriation though, the UNHCR is not involved from the Indian side there were thus no forcible departures. In 1990, as the fighting back in Sri Lanka increased, for the first time the Government of India tries to find a new solution to stop the refugee inflows. Refoulement, however, was not attempted. The concept of „ safe havens“ provided the alternative. The UNHCR agreed to set up a „safe haven“ on Mannar Island with its financial assistance. The project was not implemented. In its place the UNHCR started a programme of Immediate Relief Assistance to returns and displaced persons in Sri Lanka.

This is an ambitious programme which is to meet not only the immediate needs but would also restore communication links (roads, etc.), housing and agriculture in the affected areas. It is not surprising that these plans failed to materialize. Sri Lanka was in the grip of ethnic conflict and UNHCR could not do more than provide immediate assistance programmes

Second Phase of Repatriation

Refugees continued to trickle into India till May 1991. The repatriation of Sri Lankan refugees from Tamil Nadu started again in June 1991. The Indian Government issued a notification that all Sri Lankan Tamils living in Tamil Nadu as of 29th June 1991 should register their presence at relevant places near their camps for the task of repatriation. These registration centers are opened exclusively for the purpose of facilitating the

process of repatriation. The Government of India and the Tamil Nadu Government did not give much importance to the rage and violence that continued in Sri Lanka, making the nation unsafe for the refugee to return to. Nor was any attempt made by them to study the situation on the ground in Sri Lanka.

The refugees on their parts continued to express their willingness to go back to Sri Lanka only if the Indian Government could give them full assurance of the safety of their lives and property. But the government, obviously, could not give them any assurance on these issues. Thus, at this point in time, the Indian policy which was based on protectionism was undergoing a change, and their request for repatriation and assurance could not be implemented practically as it involved the compliance of the Sri Lankan Government, which was unavailable.

The second wave of repatriation was not as simple or as easy a process as the first wave. It became hugely complicated by the change in India's political environment, in which the Sri Lankan Tamils had played a major role. The assassination of Rajiv Gandhi by Tamil militants completely changed the situation and the sympathies in India. The Sri Lankan Tamils, to a large extent, had lost the sympathy and support of the majority of the local people of Tamil Nadu in particular and India in general. It was at this juncture that the United Nations High Commission for Refugees made its presence felt on the Indian side of the matter.

The issue was extremely complicated and solutions were not likely to be easy to find. The resulting repatriation drive was composed of both a spontaneous and an organised repatriation process. Repatriation under any circumstances is not an easy solution for the refugee issue anywhere. Criticism of India's attempts at the repatriation of Sri Lankans in 1991-1993 and the classification of methods used was easy. But the reasons for these actions were mixed. Growing local impatience with militancy, social changes, as well as economic hardships due to the presence of rich Sri Lankan refugees who stayed outside the camps were just some of the more obvious reasons.

The Principle of Non-Refoulement

The principle of non-refoulement prescribes that „no refugees should be returned to any country where he or she is likely to face persecution or torture“. While India is not a party to the 1951 Convention, it is still obliged to observe the principle of non-refoulement as this is a part of customary international law. In other words, it is binding on all states, irrespective of whether a state is or is not a party to the 1951 Convention or the 1967 Protocol. The obligation to observe the customary international law principle of non refoulement is strengthened by the fact that India is a signatory to the 1984 Convention Against Torture (CAT), although it is yet to ratify that convention. The CAT articulates a wider legal basis for respecting the principle of non refoulement.

Article 3 of the CAT state

- 1.No state party shall expel, return („refouler“) or extradite a person to another state where there are substantial grounds for believing that he would be in a danger of being subjected to torture.
- 2.For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the state concerned of

consistent patterns of gross, flagrant, or mass violations of human rights. 107 Of course, it is a well-established rule in India that the courts cannot enforce principles of customary international law if they are in conflict with statutes. Indian courts have accepted and applied the doctrine of incorporation according to which customary international law rules are to be considered a party the law of the land and enforced as such, provided that they are not inconsistent with Acts of Parliament.

3. In India the foremost reason for refusing to concretise a refugee protection policy is the threat of terrorism, even though there seems to be no reason for sustaining such a fear. Justice P.N. Bhagwati's model law, which the National Human Rights Commission is examining, and the South Asian Association for Regional Cooperation (SAARC) Anti-Terrorism Protocol of 2004, both ensure that suspected „terrorists“ are not treated as refugees. Under the proposed model law, India may exclude even other undesirable persons provided they are not sent back.

Conclusion

With the ethnic strife in Sri Lanka, the one major effect that most concerns India has been the consecutive waves of refugees that have arrived on Indian shores seeking refuge from the killing fields back home. With the first wave arriving, beginning 1983, the initial attitude of the Indian Government, and the Tamil Nadu Government, was one of benevolence and welcome. They were received as kin, and accommodated in camps around the southern Indian state. With the second wave of refugees, beginning 1989, things began to get more complicated. The Sri Lankan Tamils began to play a more and more important role in state and national level politics, both directly – as pressure groups, and indirectly – as a lucrative vote bank for politicians.

The 108 assassination of the former Prime Minister, Rajiv Gandhi, by a Sri Lankan Tamil suicide bomber, further complicated matters, and drove the government to take active steps towards the repatriation of the refugees. Existing camps were consolidated, the refugees reshuffled and housed on a cross local basis to prevent clique formation and security tightened. The third wave began arriving from 1996, as conditions continued to worsen on the island nation, and a further fresh wave began to arrive in 2006.

They were all registered, and given IDs, if they lived in camps, and details such as home address, identity etc were collected. Classified as camp, noncamp, and militant refugees, the Sri Lankan Tamils were housed and accommodated accordingly, with the highest security being reserved for those seen as militant. First wave repatriation, between 1992 and 1995 went smoothly, but the second wave began to show problems because of unabated strife in Sri Lanka and doubts about the voluntary nature of the repatriation being raised in India and internationally. However, under the Constitution of India, the refugees enjoy a number of protections as foreigners on Indian soil including the right to life, dignity, religion and so on. Various court orders and government policies also place great emphasis on the necessity of the repatriation process being voluntary.

References

1. Arunatilake, N. Jeyasuriya, S. and Kelegams, S. *The Economic Cost of the War in Sri Lanka*, World Development, 29(9), pp. 1483-1500.
2. Census of Population and Housing, Department of Census and Statistics, Government of Sri Lanka, 1981.
3. A. Nair, *National Refugee Law for India: Benefits and Roadblocks*, Institute of Peace and Conflict Studies, New Delhi, 2007, p. 10.
4. Wriggins, *Impediments to unity in New Nations: The Case of Ceylon*, The American Political Science Review 55(2), 1961, pp. 313-320.
5. Chimni, B.S. *The Legal Condition of Refugees in India*, Journal of Refugee Studies, 7(4), 1994, pp. 378-401.
6. Kearney, N.N. *Language and the Rise of Tamil Separatism in Sri Lanka*, Asian Survey, 18(5), 1978, pp. 521-553.

