

## After 40 years, Sri Lankan Tamil Refugees in India need Durable Solutions

23 July 2023 will mark the 40 years since the outbreak of civil war in Sri Lanka. As in the case of Ukraine, Syria or the Democratic Republic of Congo, the war caused the exile of hundreds of thousands of refugees and pushed to move thousands inside Sri Lanka as internally displaced persons. Albeit recent developments in India's legal framework, Sri Lankan Tamil refugees need durable solutions.

### Over 40 years of displacement in India

Tamils from Sri Lanka crossed the Gulf of Mannar (Figure 1) through the Palk Strait, a strait between Tamil Nadu state of India and the Jaffna District of the Northern Province of Sri Lanka (Figure 2). The influx of Sri Lankan refugees into India was marked by four phases. Totally, **303,076 refugees** took refuge in India during those four phases. They settled in small refugee camps all over the state of Tamil Nadu. JRS has been accompanying both the refugees and the IDPs, although JRS's presence in Sri Lanka ended in 2020. However, JRS has been serving the refugees in Tamil Nadu through income generating programs and access to education and livelihoods, since the 1990s. JRS would like to alert about the lack of durable solutions for these forgotten refugees who have spent 40 years in exile.



Figure 1. Gulf of Mannar. Picture credit: [https://tamilnation.org/heritage/palk\\_straits.htm](https://tamilnation.org/heritage/palk_straits.htm)

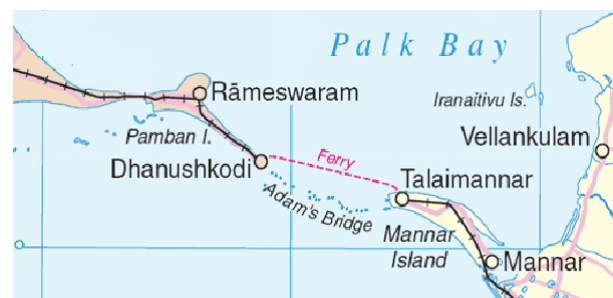


Figure 2. Palk Strait in the Palk Bay between Indian Tamil State Nadu and Sri Lanka. Picture credit: <https://www.ias4sure.com/wikiias/prelims/palk-bay-upsc-prelims/>

Between 1983 and 2012, a total of 3,04,269 Lankan Tamils reached Tamil Nadu. They escaped from the war-torn island nation and sought refuge in the state to ensure safety of their children and women.

- Among them, 58,822 are living in 108 camps in 29 districts.
- Distressingly, 29,500 of these refugees are Indian-origin Tamils who should have been treated as *repatriates* and not as refugees.
- In addition, about 34,135 Sri Lankan Tamils are living in the same state of Tamil Nadu as non-camp refugees.

All these refugees are yearning for durable solutions.

### Repatriation is not preferred to settlement in India, UNHCR reports

Most of the Sri Lankan Tamils who took asylum in Europe, USA, Canada, and Australia have been locally integrated, as those countries are signatories to either the Refugee Convention or its Protocol. India, which is not a signatory to the 1951 Geneva Convention, has no special legal framework for refugees or asylum-seekers and treats them only as “illegal migrants”. The Citizenship Amendment Act (2019) did not include the Sri Lankan refugees from its purview – much to their chagrin. Hence, those refugees in India have been stuck in limbo for around 40 years – despite their ethnic affinity with the host community.

Even those refugees who have been contemplating repatriation do not find the situation in Sri Lanka conducive enough for their return, though the civil war in Sri Lanka ended in May 2009. On 5 September 2022, the Sri Lankan Government appointed a committee to facilitate repatriation. But the Committee was not greeted with enthusiasm by the potential returnees. The UNHCR Office in Chennai reports that only 39 people have returned till the end of March 2023. The very fact that most of the refugees have chosen to stay in India even as “illegal immigrants” for 40 years is enough proof that local integration in the host country is the most preferred durable solution for them.

### India expected to favour more its Sri Lankan refugee community

A few significant developments in India favoured Sri Lankan refugees. On 8 September 2021, the Tamil Nadu Legislative Assembly adopted a resolution urging the Union Government to repeal the 2019 Citizenship Amendment Act for not placing the Sri Lankan refugees under its purview. On World Refugee Day, 2022, the Tamil Nadu Chief Minister M. K. Stalin announced that his government would respond appropriately to the question of Indian citizenship

for Sri Lankan Tamils. However, one must not forget that Indian Citizenship is granted at the discretion of the Union Government which alone has the power to do so.

### **Legal developments for Sri Lankan Tamils in India: renewed hope towards Citizenship?**

On the legal front, too, there have been some encouraging developments. Justice G. R. Swaminathan of the Madurai Bench of the Madras High Court, in his landmark judgment delivered on 17 June 2019, instructed the Union Government to consider applications for citizenship submitted by Sri Lankan refugees of Indian origin.

On 1 October 2022, Ms. Nalini, who was born to Sri Lankan refugees in Mandapam camp in 1986, received Indian Passport thanks to the **12 August Order** by the same Justice GR Swaminathan, as per Section 3 of the 1955 Citizenship Act, which states that every person born in India between 26 January 1950 and 1 July 1987 is an Indian citizen irrespective of their parents' nationality.

Further, on 18 October 2022, Justice G.R. Swaminathan observed that the principles of the 2019 Citizenship Amendment Act (CAA) could be applied to Sri Lankan Hindu Tamils as they were the prime victims of racism. He said so while hearing the petition of Ms. Abirami who was born to a Sri Lankan couple in Tiruchirappalli in December 1993. Again, on 31 January 2023, on hearing a petition of Ms. Harina of Sri Lankan descent, Justice G.R. Swaminathan recommended that she be given an Indian Passport under section 20 of the 1967 Passport Act.

Most recently, on 6 April 2023, Justice G.R. Swaminathan of the Madurai Bench of the Madras High Court directed the Regional Passport Office, Madurai, to issue an Indian passport to Mr. Neyatitus within three weeks, a youth born to a Sri Lankan refugee and an Indian woman in India – in accordance with Section 3 (1)(b) of the 1955 Citizenship Act.

### **What do Sri Lankan refugees say?**

Mr. Selvam<sup>1</sup> (60), who has been living in a refugee camp in Tamil Nadu since December 1996 says: "I am only waiting for the opportune time to return to my homeland in order that I may live and die there. I came to India as a refugee

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<sup>1</sup> Name has been changed on the request of the person.

with three children. They are not dependent on me anymore. Now, they are bent on continuing their stay in India.”

On the other hand, Mr. Vimal<sup>2</sup> (34) states: “I came to India as a one-year-old child in 1990. Yes, I have been a refugee in India for the last 33 long years. The fact that my repeated appeals for Indian citizenship have not been considered by the powers makes me feel hopeless and helpless. However, I aspire to live as a rightful citizen of India – *at least for a single day – before I die*. Being labelled “an illegal immigrant” is sickening. And I cannot but ask this question: Is it not a shame upon this country to eternally keep its asylum-seekers in a state of rightlessness and indignity?”

### **Building the future:**

Former Tamil Nadu Chief Minister Mr. M. Karunanidhi had assured that the Sri Lankan Tamil refugees living in and outside the camps would be granted Indian citizenship. Spiritual leader Sri Sri Ravi Shankar has backed Mr. M. Karunanidhi’s call to give Indian citizenship to Sri Lankan Tamil refugees in India.

**JRS urges that necessary steps be taken** by the government of India to inaugurate and speed up **local integration** of Sri Lankan refugees while keeping the door for the voluntary repatriation of those who opt for this solution.

**JRS also appeals** to the government of Sri Lanka **to integrate reconciliation and accountability into its nation-building process** and to come up with necessary rehabilitation packages that will attract the voluntary return of its displaced citizens.

It may be beneficial for both India and Sri Lanka to remember the following words of Pope Francis that were part of his message for the 108<sup>th</sup> World Day of Migrants and Refugees in 2022. *“Building the future with migrants and refugees* also means recognizing and valuing how much each of them can contribute to the process of construction.”

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