



Sri Lankan Tamil refugees: Their difficulties and expectations in India

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Abstract

Tamil Refugees, despite the fact that remaining in Tamil Nadu, between individuals who communicate in a similar language they communicate in (Tamil), are not thought of or treated as Natives. They were dealt with like detainees for the past 30 years. They experience in camps and Special camps for a really long time, without knowing the last days of their languishing. They live in vagueness; they live with ill-advised instruction, work, or haven, they live in vulnerability with obscure future. They live with Tamil Natives who don't regard them as their own; however, the Irony is the person who experiences every one of these is called 'Tamil Refugees'. What is the condition of the Tamil Refugees? How might they conquer these sufferings? What can be the answer for outperforming this dim period? What moves can be made to give them a typical life? This Research paper attempts to highlight specific answers for the questions referenced previously.

Keywords: Tamil refugee, influx, uncertainty, ambiguity, special camps

Introduction

If they are referred as 'Tamil Refugee' inside Tamil Nadu it may sound different for everyone. But this is the state that continues as a striking truth for the past thirty years. Around 70 thousand people left their motherland Sri Lanka and come to reside in the 110 refugee camp in Tamil Nadu. They left their land due to various reasons like racism and communal riots etc... The Tamil Refugees from Lanka, even though they are alike in language, customs, creeds and culture with Tamil People, they're kept captive in their so called open prison called 'Camp' for all these decades in Tamil Nadu is really painful. They are taking various measures, at various levels, by various people all over the world to bring change to the lives of the people in camps. So this article tries to bring the sufferings and lives of Tamil refugees to the lime light and to bring it to the notice to the state and central government, the real state of the people living in those refugee camps. This article tries to put some efforts pictures the reality of the camp life which will help them to change their lives.

Refugees

Wanderers, wanderers we are
From land to land we wander
Driven by hunger and by death
Embittered by suffering and pain
Over sea and hill and pain
We out casts of the earth

Schloime Ansky ^[1]

In the Swahili language the term for refugee is Mkimbizi, Which literally means "a person who runs". In his through provoking essay on the Brundi refugees in Dar es Salaam, Marc Sommers points out that much people express disgust at the continued use of the refugee label even after two decades of exile. Some believe that "being mkimbizi not

only identifies them as a people who were compelled to flee their home land in fear for their survival, but who continue to flee".

The UN Refugee Convention in an internationally agreed and legally binding treaty. It defines a refugee as a person who "a refugee as a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution ^[2]"

The Organization of African Unity (OAU) expanded the definition of refugees in Africa. "The term "refugee" shall also apply to every person who, owing to extent of aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality ^[3]"

Tamil Refugees

"Tamil Refugees" when it comes to the significance of this term, in Tamil Nadu there are people from various parts of Sri Lanka like north, Eastern part of Lanka and Malaiyaga Tamilians, instead of mentioning every one as Tamilians from Lanka, referring them as Tamil Refugees on the whole will be the right term to mention. So, this term 'Tamil Refugees' binds and brings everyone into a single roof, that is why, people from different parts of Lanka, who comes to Tamil Nadu as refugee is called as 'Tamil Refugees'. There are also people who were taken out of Tamil Nadu to work for Tea fields and for other menial works during the colonial period. The pathetic condition is that, those people who were torn out of there motherland and were squeezed out of there tiresome routine, stayed homeless there and comes back to their own root (their mother land) also share this

term ‘Tamil Refugee’. This is the most doleful and pitiful condition of these people.

Tamil Refugees in India

Tamil refugees in India are mostly hundreds out of thousands, since Tamil Nadu is the state near Sri Lanka it is easy for the people to seek refuge in this state. We also have a sum of around 700 families in Kerala, another state nearby. Considerable numbers of Tamil refugees are found in eastern regions of Karnataka, Pondicherry and Orissa.

Tamil Refugees in Tamilnadu

The Enticement for migration made most of the people to cross Palk Straight to seek refuge in Tamil Nadu. The refugees from various parts came to Tamil Nadu were registered and got quartered in various camp in Tamil Nadu. Sri Lankan Tamil people were belonging to larger and ancient Tamil’s. The mass invasion said to be happed in four phases. The first phase instigated from 24.07.1983, it is said that around 1, 34, 053 came to Tamil Nadu in 1983 and this phase extended till 1987. In Tamil Nadu we can find the maximum number of Tamil Refugee families in regions like Thuvakudi and k.k.nagar in Trichy; Nagarkoil in Kanniyakumari; R.S. Puram, Valparai in Coimbatore; Red Hills, Neelangarai, Gummidipoondi and Valasaravakkam in Chennai.

The table below clearly states the phases of Sri Lankan Refugees incursion into India

Table 1: Phase of Refugees Influx

Phases	Period	Inflow
Phase – I	24.07.83 to 31.12.1987	1,34,053
Phase – II	25.08.89 to 30.04.1991	1,22,078
Phase – III	31.07.96 to 31.08.2003	22,418
Phase – IV	12.01.06 to 04.01.2010	24,527
Total	3,03,076	

Source: Department of Rehabilitation, Tamil Nadu

The second phase of the refugees’ instigation lasted between 1989 and 1991. During the Elam war III the third phase of the instigation began in 31.07.1996. the war between Sri Lankan and LTTE paved way for the fourth phase and it commenced from January 2010. Around 8,450 families’ consisting of about 24,527 people influxes into Rameshwaram during this fourth phase. Altogether 3,03,076 persons came to India since 1983.

Camp and non-camp refugees

Refugees who came to Tamil Nadu was let to stay in Temporary camps and later scattered to over 28 districts all over the state. the refugees who stayed outside the camps are asked to report to the nearby police station and if they don’t hold proper documents, they were imprisoned for violating the foreigner’s Act. So according to this we can categorize the Lankan refugees into two categories the people who lives in camp and the people who resides outside the camps.

The food, shelter and monetary need of the people will be taken care by the government for the people who stays inside the camp so they are called as ‘Camp Refugees’. The Camp refugees are not allowed to go out of the camp for security reasons. Even if they go out for job purpose, they should return to the camp by 8 pm or they will be punished.

There are the other set of Refugees who stayed outside the camp, mostly in the relatives’ house or in the rented house, they don’t have time limits and they are allowed to work anywhere (unofficially). They work in factories; companies and they also do menial works. They don’t get any monetary help from the government. They are called as Non – Camp residents.

Indian union government on Tamil refugees

If we notice the stand taken by Indian National Government on the condition of Tamil Refugees in India, the government has no separate policy to deal with the lives of Tamil Refugees or their conditions till date. In detail they don’t have any policy at all to deal with the Tamil Refugees. The Tamil Refugees are dealt with the legal terms and conditions which is framed for them separately, rather than that The Indian Government don’t have any separate policy or legal terms to support them or save them from the drastic condition in which they survive. The Condition of Tamil Refugees urges us to ask certain questions on the treatment of Refugee people, the questions that pops up in our minds are, what are the laws that is applicable to the Tamil Refugees? How do our government apply those laws or policies in maintaining or ruling over the Tamil Refugees? To know about this, we should be aware of two important policies prevailing in India related to this, they are the Indian Citizenship Act 1955 and the other is the Foreigners Act 1946.

Indian citizenship act-1955 ^[4]

The government has made number of changes in Indian Citizenship Act 1955, based on that there has been many new amendments released, in that the amendment released in 2003 is considered to be the most important one.

(3. Substitution of new section for section 3. -For section 3 of the principal Act, the following, section shall be substituted, namely:

- J/3. Citizenship by birth.-(1) Except as provided in sub-section (2), every person born in India,
- on or after the 26th day of January, 1950, but before the 1st day of July,1987;
 - on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
 - on or after the commencement of the Citizenship (Amendment)- Act, 2003, where- I
 - both of his parents are citizens of India; or
 - One of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.)

These quotes are found in Indian Citizenship Act, i.e. in the amendment released in 2020 it is clearly stated so. Because of this amendment the refugees without documents are considered to be illegal immigrants and treated as prisoners. As mentioned in the Indian Citizenship act 2020 amendment act, even though they did not mention anything about Tamil refugees in the Citizenship Act, Vice President Venkaiah Naidu stated that they could not grant citizenship to Tamil Refugees due to the definition of illegal immigrants stated in the Citizenship Act 2020.

He mentioned about this when there was a debate on this bill.

Illegal Immigrants

We are mentioning the people who come to reside with us out of their unforeseen condition as Tamil Refugees only for our convenience, but in real they are really treated as illegal immigrants only. Even Tamil Nadu Government considers and treats them as Illegal immigrants. Tamil Refugees' stay in Temporary Refugee camps became permanent because of this thought of Tamil Nadu government. More than staying in those camps permanently, the refugees are also deemed to suffer the wrath of Tamil Nadu's special Q branch Squads. They also face the humiliations from the Revenue officials who bring monetary help for them.

Tamil Refugees suffer the hell for three generations in those refugee camps. They don't get the basic needs like Education, good job opportunities, better shelter or even the basic amenities like clean environment. They are not provided even with a normal life in those camps.

Foreigners Act 1946^[5]

We surely need to know about the Foreigners act mentioned above, which came into progress in 1946. So, let's briefly have a look at the points the Act brings in, in Act 3(2)E it is stated as

Power to make orders. - (1) The Central Government may by order make provision, either generally, or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into

1[India] or their departure therefrom or their presence or continued presence therein.

- d. shall comply with such conditions as may be prescribed or specified
 1. requiring him to reside in a particular place;
 2. imposing any restrictions on his movements;
 3. requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;
 4. requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;
 5. requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;
 6. prohibiting him from association with persons of a prescribed or specified description;
 7. prohibiting him from engaging in activities of a prescribed or specified description;
 8. prohibiting him from using or possessing prescribed or specified articles;
 9. otherwise regulating his conduct in any such particular as may be prescribed or specified;
- e. shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions
- f. [shall be arrested and detained or confined;] and may make provision 4[for any matter which is to be or may be prescribed and] for such incidental and supplementary matters as may, The refugees in Tamil Nadu were handled and treated with the same rules and practises stated in the above told Foreigners Act, in

1990s the special camps were brought into existence by following the above Act. Tamil Refugees suffer because of this too. Even though it's explained that the Special Camps are framed to reduce the fear of intruders i.e. to content the confusions and problems created by LTTE, the people who suffered in this special camps were poor commoners from the camps.

Special Camps

Special camps are nothing less than prison, but it will not come under the control of the common prison or its rules. This Special camp also comes under the Q Branch. If any of the Tamil Refugees from camp, gets caught in any legal activities and gets convicted for that and goes to prison and comes out, even though his conviction is not proved too, the Q branch will prison them in the Special camps. The Refugee, who returns after punishment period, will be again taken to the Special camps without even mentioning the date of release. Even the refugee who comes out in bail will not be spared; they will be prisoned in special camp out of doubt. He/she has to stay in that special camp till they get their verdict, they won't be sent out even it takes years to complete the case. We literally know the Indian legal systems and the duration it takes to complete a case, i.e. even one normal case takes three to five years to get over, so according to the case the period differs. The Refugees are kept in special camps till then, and if the person in the Special Camp is convicted, the years he spent in Special camp will not be counted or reduced from the actual punishment he gets. Likewise all the things are decided by the Q branch squads, nothings is left for the people to decide. Even the prisoners know the date of their release and the period of their punishment, but the people in the special camp does not know their release date. The people suffer like this in the so called special camps only because they entered this land as a refugee. This condition is far worse than the sufferings, the people faced in the Mulveli camps in Lanka.

Most of the people in the camp are those who tried their level best to leave this land. The people tried to free themselves from this worse situation by eloping to the foreign country like Australia, with the hope of expectations and life in that foreign land, which the present state and country refused to provide.

The camps like open prison on one side and the life threatening Special camps on the other is making the life of the refugees miserable. The unforeseen and unexpected future altogether ruins the life of refugees day by day. The only things that every refugee expects are a respectful life in this land. The Indian citizenship only can provide them that respectful life they expect.

Legal Battle

We have to mention one more important thing at this point. The fact is that the Indian Political system itself gives the fundamental rights to the refugees. That is the refugees (Indian Descendant) from various camps like Trichy kottupattu camp, Madurai, Perambalur, karur, and Madabam camp filed a case in Madurai (which is a branch of the Chennai court), to request them to grant Indian citizenship for them^[6].

"The writ petitioners are not having valid and up to date residential permit/long term visa. They did not arrive in India through an appropriate passport. They came here

through an illegal route. Therefore, they are illegal migrants and hence, the request of the petitioners cannot be complied with,"^[7] the state government told the court.

As per the above quote, the government of Tamil Nadu requested to dismiss that petition stating that. "The writ petitioners are not having valid and up to date residential permit/long term visa. They did not arrive in India through an appropriate passport. They came here through an illegal route. Therefore, they are illegal migrants and hence, the request of the petitioners cannot be complied with,"^[8].

Referring to the Delhi High Court judgement in Felix Stefan Kaye vs Foreigners Regional Registration Office, the Madras High Court stated that the Central Government had the political power to grant relaxation in cases arising under the Indian Citizenship Act, 1955. The Court, however, acknowledged that the grant of citizenship was the freedom of choice of the Government of India, but reminded it that "it has the power to consider the applications favourably notwithstanding the technical status of the applications as that of illegal migrants"^[9].

"The Central Government shall take note of the unique situation in which the petitioners are placed. The undertaking given before the Madras High Court that the applicants will not be sent back will also be factored in the process of consideration,"^[10] the judge said.

The above told judgement has to be noted, because it clearly states that the refugees should be first considered as human being and they have the rights to seek their fundamental rights as Human being. Considering this the judgement was given.

This judgement was given by the month of June 2019, but there was not even a single stand or action taken since then. There is nil changes in the state of refugee camps too.

In India there are refugees from various other parts of the world apart from Lanka, but they are treated in a different way. Only the Tamil refugees living in Tamil Nadu are treated according to the existing legal provisions. Only the Tamil Refugees are being treated bad and dishonoured by the constant surveillance and brutality in the camp and the torments of the Special camps.

The Tamil Refugees in Tamil Nadu are also human beings. As Human beings they have the freedom to demand their fundamental rights, they should also be treated so. The practice of treating them as criminals should be prevented. Our present Tamil Nadu government is trying its level best in convincing the central government to provide citizenship for the Tamil refugees, it's a good sign. But the government also should change its opinion about the refugees and take stand for the refugees by bringing changes in their camps and lives. This can be possible only if Tamil Nadu government gets rid of the so-called Camp structure and set the people from that system.

The United Nations refugee convention article 32 state that refugees should not be deported again to their motherland against their will, rather they should be provided with education (article 22), employment (article 17to 19), housing (article 21), and religious rights (article 4)^[11].

The United Nations refugee convention article 31 also states that they should not be punished for entering any country illegally and those they should be allowed to enter the country without hesitation and they should be provided with the required documents for their survival^[12].

The Tamil refugees left their motherland to seek refuge in Tamil Nadu because of communal riot and various other

reasons. But keeping the Tamil refugees captive like a prisoner in a camp for years and not letting them out or allowing them even to roam around is still continuing till date and this is making their life worse. Even though India did not sign the United Nations High Commission for refugees (UNHCR) for refugees, it is the mandatory and the fundamental right of each refugee to have their right of survival. As right to freedom and survival is the fundamental right of the each and every man it should be provided to them, instead of that arresting them in camps and treating them as illegal immigrants is not going to bring any good. The government cannot just accuse them as illegal immigrants and leave them to suffer.

"The petitioners can invoke Article 21 of the Constitution of India. It applies to all persons, citizens and non-citizens alike. It would apply to refugees and asylum seekers. And most certainly to the petitioners who are genealogically rooted to this soil and who speak our language and who belong to our culture"^[13].

Finally, we could conclude this argument with the above quote, which states that petitioner can invoke Article 21 of the constitution of India. He states that every person in the country can seeks this fundamental right it doesn't differentiate people into refugees and non – refugees rather it treats everyone alike. This is the most important thing which both state and central government should take into consideration and work accordingly. He also states that this is applicable to everyone especially to the petitioners who shares our same root, creed and language. So the above quote evidently clarifies and answers to the statement that states 'The refugees are not our citizens, so they don't have any rights here'.

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