

OfERR (Ceylon)

UPR Submission 2022 (Sri Lanka)

13th July 2022

SUBMISSION ON ISSUES RELATING TO REFUGEES RETURNEES FROM INDIA

This submission is done by The Organisation for Elankai Refugee Rehabilitation – OfERR (Ceylon).

Introduction

The uncertainties caused by the civil war forced Sri Lankan Tamils to leave the country and seek asylum in India. The Sri Lankan Tamil refugees have lived in the camps of Tamil Nadu since 1983. Depending on the situation in Sri Lanka they have moved back and forth. Over the years with the patronage of Government of India, they have been able to survive the hardships of refugee life. With the war in Sri Lanka coming to an end in 2009, refugees have started returning to their Sri Lanka with the plan to live their rest of life with fullest freedom and rights. Over 15,952 refugees of 6,103 families have returned to their motherland and have been able to restart their lives, whereas the vast majority of the refugees still remain in camps contemplating the right time to return to Sri Lanka. Many Sri Lankans who flee to India as refugees are returning back to their motherland hoping for decent living. They face multiple challenges that are detailed below at the time of return.

Current Context

Sri Lanka has been confronting its worst economic crisis leaving food, fuel, gas and medicine in short supply. The escalation of costs of basic commodities has doubted the basic standard of living of a common man in all aspects. For weeks, the life of a common man required hours of long queues to get the basic goods for survival in the



country. Some people have even died waiting. The country is struggling to pay for essential imports of food, medicine and fuel. The crisis situation is distressing with majority of the country's population falling below the poverty line and many losing jobs and income. Many people have become unable to afford adequate food and nutrition because of regularly hiking prices. The economic crisis led to political unrest with people protesting in the streets and roads, against the ruling government. The protests has led to unrest in the ruling government with the country's President and Prime Minister announcing resignations.

The voluntary repatriation programme facilitated by UNHCR has become standstill raising serious concerns about the future of the refugees who are in the pipeline and ready to return to Sri Lanka, with the aspirations to start their lives with fullest freedom and rights.

INTRODUCTION TO SUBMISSION

This submission consists of five support areas namely policy framework for refugee returnees, essential documentation; land, house and basic subsistence; recognition of qualifications from India; and livelihood and employment. The problems faced by the refugee returnees, particularly the specific issues, has been detailed under each of the support areas with recommendations.

1. Policy Framework for refugee returnees

Giving due respect to the inalienable rights of a person to return to their motherland to live with fullest freedom and rights, Voluntary repatriation programme has been facilitated by UNHCR. As a result, 15,952 refugees returned to their motherland and have been able to restart their lives, whereas the vast majority of the refugees still remain in camps contemplating the right time to return to Sri Lanka. Nevertheless, even after 13 years of the inception of the voluntary repatriation process, there has been no specific policy framework created to support the return and reintegration of refugee returnees in Sri Lanka. The National Policy for Durable Solutions for the Conflict affected persons, which has been developed for IDP's resettlement in North-East, has been used to deliver reintegration support for the refugee returnees. However, there has been many practical challenges to facilitate holistic support to enable the sustainable reintegration of refugee returnees. For example, this policy framework doesn't address anything relating to providing support to ensure



sustainable reintegration of refugees from India.

Recommendations

- It is strongly recommended to develop a policy framework for refugee returnees that could address the major concerns and specific issues connected with the sustainable reintegration of refugees. This should also precede the signing of a memorandum of understanding between the governments of India and Sri Lanka, to create a structured return programme associated with economic welfare measures, to facilitate the return of refugees from India.

2. Essential Documentation

It is under unfortunate circumstances that displacement takes place and, inevitably, the civil and legal documents are lost or inaccessible due to their vulnerability and extraordinary circumstances beyond their control. The affected persons find it difficult to or are unable to access their civil and or legal documents for their return.

- The unavailability of single identity has become a crucial amongst returnees in terms of delay in obtaining Sri Lankan citizenship and NIC; delay in being processed for reintegration benefits; delay in accessing rights and entitlements including social welfare schemes; inability to open up bank accounts and get employment, educational attainments, driving license, passport, etc; and inability to work and earn money.
- Many returnees find difficulties in obtaining the essential documents such as birth certificate, marriage certificate, death certificates due to various reasons such as unregistered/unavailable birth certificates of the parents; unregistered/unavailable marriage certificates of the parents; unavailability of legal marriage certificates, but they have customary marriage certificates; unavailability of grandparent's birth certificate; unobtained consular birth certificates; and mistakes in birth, death and marriage certificates.
- The birth certificates for those, who were born in the estates in Central Province during the period 1966-1983, are not available with the concerned departments. The reason is that those births have gone unrecorded due to the uncertainties connected with the repatriation to India. Though the parents have birth certificates in Sri Lanka, claiming citizenships for the third generation has become a challenge due to the reason of difficulties in obtaining a birth certificate or even a 'Nil report' for the grandparents born in the estates.



- Though the Sri Lanka recognises the right to citizenship, many returnees face extreme delay in obtaining their citizenship application, a penalty (Rs.28,750/- penalty for registration of citizenship above 21 years) is charged. For the persons below 21 years old, late registration penalty (Rs.5,750/- + Rs.500/- for every year of delay) is levied even though they possess the Refugee Family identity card that was issued by the government of India.
- Those who apply for consular birth certificates and citizenships with Sri Lankan Deputy High Commission in Chennai, at the time of return are unable to obtain the same from the consular services in the country due to lack of coordination between the consular services in Sri Lanka and India.

Recommendations

- All the documents issued by Indian government should be accepted by SL government until replacement documents issued by government of Sri Lanka. Returnees should be issued SL National Identity Card immediately on arrival by recognizing the Refugee Family identity card, which is issued by the government of India, to ensure that they are recognized with their rights as Sri Lankan citizens, in order to consider returnees for rights and entitlements.
- The SL government should consider issuing essential documents to refugees on humanitarian grounds with minimal documentary evidence. This includes the acceptance of affidavits to claim their birth, marriages and deaths by accepting minimum documents such as Refugee Family identity card issued by the government of India.
- The government of Sri Lanka should make necessary arrangements to expedite the process of issuing Sri Lankan Citizenship. Refugee Family identity card should be considered as documentary evidence for the penalty waiver for below 21 years while waiving off the penalty of Rs.28,750/- for registration of citizenship for those above 21 years.
- The government should have Policy/Government circular to Consular Services to clear the citizenship backlog for the refugees born outside the country, in India;
- The government should consider a provision of citizenship for those who are born in the central province by accepting the birth certificates of the parents and minimal proof to confirm the birth of their grandparents.



- The government of Sri Lanka should strengthen a greater coordination between the consular services in the country and the Sri Lankan consular missions outside the country, to fasten the process of issuing consular birth certificates and citizenship documents for those registered in both the countries.

3. Land, Housing and Basic Subsistence

Refugees have not visited Sri Lanka since their fleeing and therefore, were not physically present to claim their land. The vast majority of the returnees don't have documents to prove their ownership. With the no state land available, the government is unable to provide new land for the returnees. This results the refugee returnees to live with relatives or in the land of their friends or relatives. On the other hand, the lands are unprepared for settlement as it is surrounded by jungle with the threats by animals, which leads to an insecure life. In addition, some of the people's land have been preserved for the national conservation of forests. People even after returning are complete unable to get their land back as it has been occupied by government stakeholders or private.

- The refugee returnees are homeless at the time of return to Sri Lanka. Thus, the individuals or families live in the rental houses or with relatives tolerating all hardships. There were housing schemes available for the returnees up to 2018 and returnees waited a maximum of 18 months to avail that housing scheme. But now, there is no housing scheme exist to support the refugee and IDP returnees in the country after 2020. Even with the schemes available in 2020, the allocation per house under the National Housing Development (NHD) scheme was Rs.600,000/- and available to very few returnees. The NHD scheme after disbursing Rs.100,000/- to families, has been stopped due to unavailability of funds.

Recommendations

- The refugee returnees should be facilitated, granted access to essential welfare services including land and housing with a minimal period of six months to ensure proper rehabilitation. During the time of resettlement, refugee returnees should be assured with systems to reclaim their ownership with evidence of substantial alternative documents or process of verification through timely and fair process. And if landless, a piece of land to be granted or an equal compensation to be offered. Dry



ration along with essential needs for children and feeding mothers should be provided to the refugee returnee families.

- The government must take immediate steps to purchase individuals lands or redistribute state land to the needy refugee returnees. The provision of land for the refugee returnees should be in a human habitation areas.
- In the overall budget allocation for a district development, specific allocations should be compulsory made to support the construction of housing for refugee returnees. An international support to provide housing assistance for the refugees should be mobilized. On this basis, all the refugee returnees should be provided support for construction of shelters within six months of their return.
- All the refugee returnees should be ensured with proper systems/schemes for a support with housing. For extremely vulnerable individuals and families a provision of capital should be offered to make a transitional shelter until they get a permanent house with basic facilities. Extremely vulnerable individuals should be considered with utmost priority and ensured that they are included in all the welfare systems and schemes.
- The unidentified lands, whether a deed land or a permit land, has been occupied by the strangers. The government of Sri Lanka should initiate special efforts to identify those unidentified lands and protect the same from the illegal occupation by the strangers.

4. Recognition of Qualifications from India

- Upon return, the graduates, who have earned their academic degrees and diplomas, face the risk of their education being unrecognized as many students earn their graduation from the Universities / Deemed Universities and Poly-Technical Universities that are listed neither in the Common Wealth Book of Universities nor the World Book of Universities. Having returned with the no or less resources in their hand, they have the problem with the vulnerability to afford charges - traveling to Colombo and obtaining equivalency for the academic certificates including converting Diploma certificates into National Apprentice and Industrial Training (NAITA LKR.35,000/- per certificate); and pay Rs.2500/- to obtain an equivalent certificate for a University degree.



- The foreign degrees are considered as external degrees and hence, in the recent times, the degree holders from India are not absorbed into the public employment system. The example is holding of provision of employment for Indian graduates in 2020.
- At the same time, though equivalent certificates for the 10th and 12th standard are provided, it is issued without the mention of candidate's name and therefore, the candidate is expected to do a verification. It is also important to note that refugee returnees with these equivalent certificates are considered ineligible for the selection into the Universities and unable to apply for the employments in par with G.C.E (A/L) and O/L holders in Sri Lanka as the certificates are not issued equalising the marks or GPA as required within the Department of Examinations in Sri Lanka.
- In order to confirm the public employment with the government of Sri Lanka, the refugee returnees are required to confirm their degree graduations with the concerned universities, there is a challenge to get the confirmation in a stipulated period of time and which costs them to be removed from the hard-earned job.

Recommendations

- The government of Sri Lanka should recognize the Indian Educational attainments ensure refugee returnee children, and those who wish to continue their studies /higher studies to continue in Sri Lanka without any difficulties. All the courses including, certificate, diploma, vocational and other courses should be recognized and equivalent certificates to be provided, without delay. New regulations on waiving off fees incurred with the equivalent certificates' provision, for refugees, who attained their graduation and other courses in India. In case of mistakes in educational transcripts, affidavits should be prepared with the facilitation of Indian High commission in SL, and Government of Sri Lanka should recognize the affidavits. This would enable more than 3500 graduates and diploma degree holders, who have attained their graduations in India, and other graduates from other countries to go in search of employment in par with the education attainments.
- The government through UGC should have system to verify the degree qualifications from India and accordingly, issue a special document to confirm the 'internal degree' status of their qualifications to enable the returnees' qualify for



the public sector employment.

- The UGE should create opportunities for refugee returnees to exempt the charges for obtaining equivalency of degree certificates. The waive-off could be done through the requirement of submitting refugee identity card issued by the government of India.
- The confirmation of certificates should be coordinated through consular services and with the Sri Lankan deputy high commission in Chennai, to enable follow-ups to expedite the process of the issuance of confirmation certificates by the concerned universities.
- While issuing the equivalent certificates of 10th and 12th certificates in par with G.C.E (O/L) and (A/L) respectively, efforts should be made to quantify the marks and include in the equivalent certificates, to enable them apply for public sector employments.

5. Livelihood and employment

- In terms of Livelihood and employment, many refugees face challenges in starting their life with a minimum standard of living. On arrival, they face difficulties in finding employment opportunities in both private and public sector. There is less vocational employment opportunities for youth and absence of career guidance support. Absence of support to engage in traditional occupation, deprivation of agricultural land and compulsory requirement of guarantors for livelihood loans have been some of the challenges that hinder the livelihood prospects of the returnees.

Recommendations

- To ensure livelihood and employment opportunities for refugee returnees, government should set up employments linkage services with online portals. The qualified individuals should be given opportunity in government sector. Refugee returnees who were included in the livelihood schemes should be provided maximum coverage to take up income generation program. They should also be considered for the provision of vocational and employability trainings and thus, encouraged to engage in strengthening the income generations.



- A scheme of provision of land for 100,000 young entrepreneurs that has been initiated by the government should be restarted to encourage traditional based livelihood initiatives by the youth. Refugee returnee youth should be included in good numbers.
- The returnees should be created customs and tax exemption facilities to bring back their belongings to Sri Lanka through ferry service. The returnees should be permitted to transport the livelihood assets including equipment and appliances from India, to enable them setting up their livelihood upon return without any difficulty.
- There should be linkages or facilities created for the youth to practise their skill-oriented livelihoods upon return in Sri Lanka.
- The lands that were captured by the security forces and also, reserved as forest area by the Forest Department and Wild Life Authorities, should be made available to set up agriculture and other traditional based livelihood options for the returnee population.