



Australian Government
Refugee Review Tribunal

Country Advice

Sri Lanka

Sri Lanka – LKA36536 – Tamils –
Trincomalee – Irakkakandy – Mettupatti
Refugee Camp – India – Passports – Right
of Re-entry – Document fraud

18 May 2010

1. Please provide up-to-date situation on the treatment of Tamils in Sri Lanka and in Trincomalee District in particular.

Despite the end of abuse and repression under the LTTE with their defeat in May 2009, several sources state that Tamils still face human rights violations including extrajudicial killings, disappearances, detention, harassment and alleged discrimination. While a majority had been released, 80,000 mainly Tamil internally displaced persons (IDPs) were still held in Government camps. However, there had been some areas of improvement including Government efforts to increase the number of Tamils in the police force, increasing freedom of movement and economic opportunities. Trincomalee had seen a drop in the reports of abuse, though there were still some concerns.

Treatment of Tamils in Sri Lanka

The US Department of State (US DOS) alleges that young male Tamils are the majority of victims of human rights violations in Sri Lanka, such as extrajudicial killings and disappearances, though these have reduced since the LTTE's defeat.¹ Enforced disappearances and abductions, a longstanding problem throughout Sri Lanka, were worst in the north and east, where Tamils were often the majority.^{2 3} Security forces were said to harass Tamils at checkpoints in Colombo. In the eastern provinces where authorities worked with the Tamil Makkal Viduthalai Pulikal (TMVP) political party, this was coupled with restricted movement. Amnesty International reported that over 1,000 Tamils were in detention without charge and that some had been in detention for several years. In September 2009, the Police ordered all Tamils who had arrived in the south from the previous conflict zones of the north and east within the last five years, to register with the authorities.⁴ In a January 2010 report, the International Crisis Group went further to argue that the Sri Lankan Government's post war policies had served to exacerbate the Tamil community's grievances.⁵

Tamils claimed that they still suffered discrimination in areas of university education and government employment, largely due to affirmative action programs set in place by Sri Lankan Governments to correct British favouring of Tamils during colonial rule. The US

¹ Ethirajan, A. 2010 'Fear and anxiety in battered Tamil city', *BBC News*, 1 February 2010
http://news.bbc.co.uk/2/hi/south_asia/8491120.stm – Accessed 14 May 2010 – Attachment 1

² Human Rights Watch 2010, *World Report – Sri Lanka*, January – Attachment 2

³ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Sri Lanka*, March – Attachment 3

⁴ Amnesty International 2009, *Amnesty International Annual Report – Sri Lanka* – Attachment 4

⁵ International Crisis Group, Update Briefing: Sri Lanka: A Bitter Peace, 11 January 2010, p. 1,
<http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/B099-sri-lanka-a-bitter-peace.aspx> - Accessed 14 May 2010 – Attachment 5

Department of State (US DOS) cited a Sri Lankan Human Rights Commission's assertion that Tamils also experienced discrimination in housing.⁶

Internally Displaced Persons

One of the greatest concerns for the Tamil community is the situation of IDPs of which Tamils constitute the majority. The repatriation of IDPs had begun with a majority already released from the Government camps where they had been held since the conclusion of the war. A *BBC* report from February 2010 stated there were approximately 80,000 people still remaining in the camps near the northern town of Vavuniya⁷, down from the 129,000 reported in November 2009 by Human Rights Watch.⁸ Many who returned faced economic hardship and feared reprisals from pro-government paramilitaries.⁷ The UK Foreign and Commonwealth Office stated that "significant protection concerns" remained "for both displaced and returning civilians, as well as for at least 11,500 suspected ex-combatants to whom the ICRC has no access and who themselves have no access to due legal process regarding their detention".⁹

Improvements

The situation for Tamils has been improving in certain aspects. A Relief Web article stated that many Sri Lankan Tamils who fled to India during the war now wanted to return now that the conflict was over and that both governments had a positive attitude towards their return.¹⁰ The UNHCR cited a report by the *BBC* (which has long been accused of pro-LTTE bias by pro-Government groups) from March 2010 stating that police stations in Colombo and in Tamil majority areas had markedly expanded their Tamil language facilities. This included through hiring Tamil police, though some were said to be members of pro-Government paramilitaries.¹¹ There were 34 Tamils in the 225 member parliament, which is in line with the overall proportion of Tamils in the population.⁶

A *Time* article from March 2010 stated that in the Tamil cultural capital of Jaffna restrictions on residents' freedom of movement were being relaxed and IDPs were being repatriated. Tamil residents of the town stated that "the city is beginning to enjoy the calm after nearly 30 years of nonstop fighting" and "life in Jaffna now seems too good to be true". Furthermore the reopening of the A9 highway which connects the Jaffna peninsula to the rest of the island has helped the coming together of the Tamil and Sinhala communities, previously kept apart by years of war.¹²

Situation in Trincomalee

Trincomalee is a district with a large Tamil population in north eastern Sri Lanka. According to Sri Lanka's Presidential Commission of Inquiry into disappearances, abductions and murders, rights violations in the Eastern Province (in which Trincomalee is located) had seen

⁶ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Ghana*, March – Attachment 3

⁷ Ethirajan, A. 2010 'Fear and anxiety in battered Tamil city', *BBC News*, 1 February 2010 http://news.bbc.co.uk/2/hi/south_asia/8491120.stm – Accessed 14 May 2010 – Attachment 1

⁸ Human Rights Watch 2010, *World Report – Sri Lanka*, January – Attachment 2

⁹ UK Foreign and Commonwealth Office 2010, *Annual Report on Human Rights 2009*, March, p 149 – Attachment 6

¹⁰ Bhalla, N. 2010 'INDIA/SRI LANKA: Sri Lankan war-refugees in India face struggle to return home', Relief Web website, 16 March – Attachment 7

¹¹ Country of Origin Research and Information (CORI) 2010, *CORI Country Report: Sri Lanka*, April – Attachment 8

¹² Perera, A. 2010. 'Where to Buy a Land Mine in Sri Lanka', *Time Magazine Online*, 31 March <http://www.time.com/time/world/article/0,8599,1976399,00.html> – Accessed 14 May 2010 – Attachment 9

a drop of around 90 to 95 percent in Jan-May 2009 compared with the same period in 2008.¹³ However reporting around the conclusion of the war (in May 2009) still painted a picture of sporadic abuse against Tamils. Human Rights Watch noted that the Trincomalee district saw 16 “enforced disappearances” from January to June 2009.¹⁴ A June 2009 article in *The Australian* reported bashings and Tamil families and businesses being obliged to donate money for a feast celebrating the end of the war.¹⁵ The US DOS stated that in 2009 harsh security measures were still evident in Trincomalee, involving roadblocks, security checkpoints and the presence of soldiers on major roads for fear of remaining LTTE fighters.¹⁶

Within the last year there has been a drop in reports of abuses suggesting a somewhat improving situation. Restrictions on fishing had eased and economic activity and travel had increased according to the UN.¹⁷ Sri Lanka’s *Daily News* reported in June 2009 that training centres had been implemented by the Government in Trincomalee, with the aim of training Tamil youths in various skills to re-enter the economy.¹⁸

Despite the improving situation, the UNHCR reported that IDP camps still existed in Trincomalee.¹⁹ Violence in the district during Sri Lanka’s parliamentary elections meant that re-polling had to be conducted in late April 2010. The re-poll saw President Rajapakse’s governing coalition win Trincomalee.²⁰ This suggests either a level of support for the Government’s coalition, or a reluctance of Tamils to vote due to disillusionment or fear.

2. Please provide a map of the area around Irakkakandy in Trincomalee.

Irakkakandy is marked on the attached map. It is on the coast, north of Trincomalee town.²¹

3. Please provide information on the Mettupatti refugee camp, including the number of people living there, the conditions there and who runs it.

Mettupatti refugee camp for Sri Lankan Tamil refugees is located near Mettupatti town in Tamil Nadu, India. In 2006 it was said to house 704 refugees, including 181 children and 252 women.²² The camp’s conditions were on par with others in Southern India, which were

¹³ ‘Sri Lanka’s east returns to normalcy: commission report’ 2009, *Xinhua News*, 16 June http://news.xinhuanet.com/english/2009-06/16/content_11552222.htm – Accessed 12 May 2010 – Attachment 10

¹⁴ Human Rights Watch 2010, World Report – Sri Lanka, January – Attachment 2

¹⁵ Hodge, A. 2009, ‘Tamils fear bout of ethnic cleansing’, *The Australian*, 1 June – Attachment 11

¹⁶ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Ghana*, March – Attachment 3

¹⁷ Office of the United Nations Resident and Humanitarian Coordinator for Sri Lanka 2009, ‘Joint Humanitarian Update: North East Sri Lanka’ Report # 8, Relief Web website, 15 June [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/NSPR-7TCG4N-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/NSPR-7TCG4N-full_report.pdf/$File/full_report.pdf) – Accessed 30 June 2009 – Attachment 12

¹⁸ Rasooldeen, M. 2009, ‘New life after LTTE rout’, *Daily News*, 29 June

<http://www.dailynews.lk/2009/06/29/news33.asp> – Accessed 30 June 2009 – Attachment 13

¹⁹ Country of Origin Research and Information (CORI) 2010, CORI Country Report: Sri Lanka, April – Attachment 8

²⁰ ‘UPFA wins Trinco polls’ 2010, Daily Mirror, 20 April <http://www.dailymirror.lk/index.php/news/3230-upfa-wins-trinco.html> - Accessed 14 May 2010 – Attachment 14

²¹ ‘Administrative Boundaries: Trincomalee District’ (undated), Integrated Food Security Programme Trincomalee website <http://www.ifsp-srilanka.org/assets/images/webadmin.jpg> – Accessed 14 May 2010 – Attachment 15

²² ‘Refugees demand better facilities’ 2006, The Hindu, 11 August

<http://www.thehindu.com/2006/08/11/stories/2006081104160300.htm> - Accessed 14 May 2010 – Attachment 16

worse than the refugees' living conditions back in Sri Lanka. The refugees, nevertheless, felt safer in the camps.

An article in *The Hindu* from 2002 discusses the shifting of 193 families from Arcot and Krishnagiri camps to Mettupatti by Indian authorities. The refugees protested that Mettupatti was "woefully lacking in basic amenities". A majority of them said that if the Indian Government arranges for a ship, "they will sail back to the war-torn island, where they would face the bullets, rather than live in sub-human conditions here". They complained that their children's schooling would be interrupted as there was no school in the vicinity of Mettupatti. There was also no hospital or clinic in the vicinity, and one had to "walk about 2 km to reach the Tiruchi main road to get a bus; even otherwise, the services are few and far between". Officials, however, stated that it "was near a highway [and] the refugees would not find any difficulty in getting bus services. After a while they would get accustomed to the place."²³

Conditions

At the time of the 2002 *The Hindu* article, it was reported that in the camp's tenements: flooring had not been done; there were gaping holes in the roofs; there were no power connections; toilets were kept locked; and the area was strewn with boulders and snakes. Many were not lucky enough to have a tenement and had live in the open. Officials responded to complaints about lack of electricity stating that the refugees should go about obtaining the power connections on their own as the officials had already provided them streetlights. The refugees were given a dole of about A\$2 per head every 15 days, and rice at 57 paise (cents) a kg, at 6 kg per adult every fortnight. There was also one bore-well with another to be sunk soon. A doctor would visit the camp periodically.²⁴ An article in *The Hindu* four years later in 2006 stated that refugees were still seeking more streetlights, construction of new toilets and restoration of roads and roofs of houses.²³ However, a recent article from December 2009 stated that the Tamil Nadu State Government had instructed officials to take steps to provide a separate power connection for a community hall at the camp as well as sports materials for the community playground in the camp. U. Sagayam, a Government official, had stated that the Government planned to provide all amenities to the camps as well as an adequate supply of goods.²⁴ A Tamil Nadu Government policy note for 2008-2009 allocates 600,000 Rupees (about A\$20,000) for construction of new huts at the camp.²⁵

Responsibility for the Camp

It was Tamil Nadu Government authorities who had moved the refugees to the camp and Government officials who had been responsible for its facilities and funding, meaning that it was the Tamil Nadu State Government that ran the camp. Revenue Divisional Officer,

²³ Rangunathan, A. 2002 'Uprooted again, and left on inhospitable terrain', *The Hindu*, 12 June <http://www.hinduonnet.com/thehindu/2002/06/12/stories/2002061204760400.htm> – Accessed 14 May 2010 – Attachment 17

²⁴ 'Amenities' 2009, *The Hindu*, 7 December <http://www.hinduonnet.com/thehindu/thscrip/print.pl?file=2009120750550300.htm&date=2009/12/07/&prd=th&> – Accessed 14 May 2010 – Attachment 18

²⁵ Government of Tamil Nadu 2009 'Demand No. 38: Public Department Policy Note 2008-2009', Government of Tamil Nadu website <http://www.tn.gov.in/policynotes/archives/policy2008-09/pdf/public.pdf> – Accessed 14 May 2010 – Attachment 19

Velusamy, and the tahsildar (district official) S.Murugesan had represented the authorities when discussing the camp with *The Hindu*.²⁶

4. Please provide information on the documentation that would be issued to a Sri Lankan refugee by the Indian authorities.

The Indian Government recognizes Tamils from Sri Lanka as refugees and thereby issues them identity documents, according to the U.S. Committee for Refugees and Immigrants.²⁷ There is the possibility that a large proportion of refugees have not received such documentation as they are not registered with the Indian Government.

The Immigration and Refugee Board of Canada obtained information from Catholic refugee rights organisation Jesuit Refugee Service (JRS) South Asia on the nature of the identity documents:

Sri Lankan refugees in Tamil Nadu are issued a family card that includes a family photo, names of the family members, their age, relationship, gender, date of arrival in India, location of arrival, education, as well as their address in Sri Lanka. Sri Lankan refugees also have individual identity cards that carry their name and address, which are useful when authorities verify identification outside of the camp. Additionally, some Sri Lankan refugees are able to obtain a driver's license, due to a shift in government policy (JRS 11 Jan. 2010).

The JRS Regional Director stated that within one month of a child's birth, Sri Lankan refugees can obtain a birth certificate at the local *panchayat* (government) office. Death certificates can also be obtained at the local panchayat office. A marriage certificate can be obtained from the authorized registrar and is essential in order for parents to obtain a Sri Lankan citizenship certificate for their child.

...Lastly, the Regional Director of JRS South Asia indicated that Sri Lankan refugees can obtain a refugee certificate, which is needed to return to Sri Lanka; it is issued by the local administration through the revenue inspector of the camp in which the refugee has been living (11 Jan. 2010). The Hindu reports that refugee demands, communicated when officials visited Tamil Nadu camps in November 2009, include the issuance of identity documents for those who do not have them, as well as the need for "standardized refugee certificates" (3 Nov. 2009).²⁹

South Asia Analysis Group added that refugees wishing to return to Sri Lanka were issued with exit permits. They were also required to get legal documents from the Sri Lankan Consulate in Chennai and other documents from the UNHCR.²⁸

While there are approximately 100,000 refugees who have been officially recorded by the Tamil Nadu Department of Rehabilitation²⁹ according to a 2007 paper by the University of

²⁶ Ragunathan, A. 2002 'Uprooted again, and left on inhospitable terrain', *The Hindu*, 12 June <http://www.hinduonnet.com/thehindu/2002/06/12/stories/2002061204760400.htm> – Accessed 14 May 2010 – Attachment 19

²⁷ Immigration and Refugee Board of Canada 2010, ZZZI03357.E - *Sri Lanka/India: Status of Sri Lankan Tamil refugees in India, including information on identity documents, citizenship, movement, employment, property, education, government aid, camp conditions and repatriation (2008 - January 2010)*, 3 February – Attachment 20

²⁸ Suryanarayan, V. 2009, 'Sri Lanka: Focus on The Sri Lankan Tamil Refugees', South Asia Analysis Group website, 13 November <http://www.southasiaanalysis.org/%5Cpapers36%5Cpaper3502.html> – Accessed 14 May 2010 – Attachment 21

²⁹ Vinoj Kumar, P.C. 2009, 'Greener Grass On This Side', *Tehelka Magazine*, vol.6: no.30, 1 August http://www.tehelka.com/story_main42.asp?filename=Ne010809greener_grass.asp – Accessed 14 May 2010 – Attachment 22

Jaen, unofficial data suggests the number may be more than 150,000.³⁰ This would mean there may be more than 50,000 who have not been issued documents. According to Relief Web there were some 30,000 refugees who were "stateless" with no citizenship documentation.³¹

5. Do Sri Lankan refugees in India have any right to re-enter and reside in India?

No information was found on the right of re-entry for the refugees who had not taken up Indian citizenship. However, it is not unheard of for refugees to have returned to Sri Lanka at times of relative calm during the 26 year war, such as ceasefires, and then come back to India when the fighting resumed. There are said to be at least 15 such families in the Madurai camp in Tamil Nadu.³¹ It is likely that whether these refugees legally had a 'right' to re-enter India or not was of little consequence as they usually re-entered the same way they had originally entered, by sea using illicit boats. In April 2010 Indian authorities arrested refugees who were returning to Sri Lanka without notifying authorities at the camps they were staying at.³²

The *1948 Foreigners Order* prohibits refugees and asylum seekers from leaving India without permission which would mean that those refugees who had left in such a manner would be unlikely to have a right to return.³³ There were also legal restrictions on refugees' movements within India under *The Foreigners Act, 1946*.³⁴

6. Please provide information on the availability of false Indian travel documents.

False Indian travel documents are available and the capacity of an individual to obtain one usually depends on their ability to produce false identity documents and bribe officials.

The Crime Investigation Department (CID), Andhra Pradesh (a state bordering Tamil Nadu) stated that they had seen a number of cases of fraud involving passports. They detail how passports may be obtained through the use of false proof of residence, date of birth and educational qualification affidavits, and fake ration cards. In fact, most of the affidavits were said to be false and fabricated and several notary advocates were known to "affix their seal blindly without applying their mind".³⁵

A DFAT report from 2008 describes the process of verification checks done on individuals applying for an Indian passport. This included provision of identification documents certified by a sub-magistrate and a police verification check where police visit the individual's place of residence to confirm that it is their true address.³⁶ However, Transparency International's corruption survey in 2005 which used a sample of 14,405 respondents across 20 states, found that among services for which bribes are paid, "Verification of Passport" was the 6th most

³⁰ Acharya, A. 2007 'Ethnic Conflict and Refugees in Sri Lanka', Universidad de Jaén website, http://dailyguideghana.com/newd/index.php?option=com_content&task=view&id=8693&Itemid=243 - Accessed 14 May 2010 – Attachment 23

³¹ Bhalla, N. 2010 'Sri Lankan war-refugees in India face struggle to return home', *Reuters*, 16 March – Attachment 24

³² 'Six Sri Lankan refugees arrested in south Indian state' 2010, *Press Trust of India*, 4 April – Attachment 25

³³ 'Tibetan Refugees in India: Declining Sympathies, Diminishing Rights' 2008, South Asia Human Rights Documentation Centre (SAHRDC), 30 April – Attachment 26

³⁴ Immigration and Refugee Board of Canada 2010, *ZZZ103357.E - Sri Lanka/India: Status of Sri Lankan Tamil refugees in India, including information on identity documents, citizenship, movement, employment, property, education, government aid, camp conditions and repatriation (2008 - January 2010)*, 3 February – Attachment 20

³⁵ Crime Investigation Department – Government of Andhra Pradesh (undated), *Passport – Immigration Frauds and Foreigners' Issues*, Crime Investigation Department website <http://www.cidap.gov.in/documents/Passport.pdf> - Accessed 14 May 2010 – Attachment 27

³⁶ Department of Foreign Affairs and Trade 2008, *DFAT REPORT 928 – India: Update on Passports, Airport Checks and Exit Procedures: RRT Information Request IND33968*, 26 November – Attachment 28

common.³⁷ If false verification is widely practiced, this suggests a high availability of false Indian travel documents.

Attachments

1. Ethirajan, A. 2010 'Fear and anxiety in battered Tamil city', *BBC News*, 1 February 2010 http://news.bbc.co.uk/2/hi/south_asia/8491120.stm – Accessed 14 May 2010.
2. Human Rights Watch 2010, World Report – Sri Lanka, January.
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4. Amnesty International 2009, *Amnesty International Annual Report – Sri Lanka*.
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6. UK Foreign and Commonwealth Office 2010, Annual Report on Human Rights 2009, March, p149. (CISLIB –Sri Lanka)
7. Bhalla, N. 2010 'INDIA/SRI LANKA: Sri Lankan war-refugees in India face struggle to return home', Relief Web website, 16 March. (CISNET – Sri Lanka: CX241085)
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9. Perera, A. 2010. 'Where to Buy a Land Mine in Sri Lanka', *Time Magazine Online*, 31 March <http://www.time.com/time/world/article/0,8599,1976399,00.html> – Accessed 14 May 2010.
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13. Rasooldeen, M. 2009, 'New life after LTTE rout', *Daily News*, 29 June <http://www.dailynews.lk/2009/06/29/news33.asp> – Accessed 30 June 2009.
14. 'UPFA wins Trinco polls' 2010, Daily Mirror, 20 April <http://www.dailymirror.lk/index.php/news/3230-upfa-wins-trinco.html> - Accessed 14 May 2010.

³⁷ Transparency International India 2005, *India Corruption Study 2005*, October, p33 <http://www.tiindia.in/data/files/India%20Corruption%20Study-2005.pdf> – Accessed 14 May 2010 – Attachment 29

15. 'Administrative Boundaries: Trincomalee District' (undated), Integrated Food Security Programme Trincomalee website <http://www.ifsp-srilanka.org/assets/images/webadmin.jpg> – Accessed 14 May 2010.
16. 'Refugees demand better facilities' 2006, *The Hindu*, 11 August <http://www.thehindu.com/2006/08/11/stories/2006081104160300.htm> - Accessed 14 May 2010.
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20. Immigration and Refugee Board of Canada 2010, ZZZ103357.E - *Sri Lanka/India: Status of Sri Lankan Tamil refugees in India, including information on identity documents, citizenship, movement, employment, property, education, government aid, camp conditions and repatriation (2008 - January 2010)*, 3 February. (CISNET – Sri Lanka: ZZZ103357.E)
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25. 'Six Sri Lankan refugees arrested in south Indian state' 2010, *Press Trust of India*, 4 April. (CISNET – Sri Lanka: CX241756)
26. 'Tibetan Refugees in India: Declining Sympathies, Diminishing Rights' 2008, South Asia Human Rights Documentation Centre (SAHRDC), 30 April. (CISNET – India: CX203266)

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28. Department of Foreign Affairs and Trade 2008, *DFAT REPORT 928 – India: Update on Passports, Airport Checks and Exit Procedures: RRT Information Request IND33968*, 26 November.
29. Transparency International India 2005, *India Corruption Study 2005*, October, p33 <http://www.tiindia.in/data/files/India%20Corruption%20Study-2005.pdf> – Accessed 14 May 2010.