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**CHALLENGE OF STATELESSNESS—THE  
INDIAN RESPONSE**

**by**

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## **CHALLENGE OF STATELESSNESS—THE INDIAN RESPONSE\***

There are stateless people all around the globe. The problem is very acute in the Asia–Pacific region. The United Nations High Commissioner for Refugees (UNHCR) estimates that there are 10 million stateless persons across the world. A stateless child is born every ten minutes.

What does it mean to be a stateless person? It means you have no identity, you have no nationality. You are not recognised as a citizen of any country. As UNHCR has rightly pointed out, ‘Often they are excluded from cradle to grave—being denied a legal identity when they are born, access to education, health care, marriage and job opportunities during their life time and even the dignity of an official burial and a death certificate.’ Over one-third of the world’s stateless are children.

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Statelessness, as UNHCR has shown, is a man-made problem. The UNHCR was mandated to assist the refugees in 1950. Gradually, it expanded its activities to tackle the problems faced by the stateless persons. The legal cornerstone of UNHCR’s mandate is the 1964 Convention relating to the status of stateless persons, and the 1961 Convention on the Reduction of Statelessness. The mandate is supported by UN Declarations like the 1948 Universal Declaration of Human Rights, and several international and regional treaties which uphold the right of every person to have a nationality.

The exact number of stateless persons in India has not been estimated. In the Indian situation, it is extremely difficult to identify stateless persons because the Government of India characterises them as illegal immigrants. The Institute of Statelessness and Inclusion, in a report on ‘The World’s Stateless’, published in December 2014, has an asterisk

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\*Lecture delivered by V. Suryanarayan at the India International Centre on 7 February 2018.

against India, which means that no data is available. In the section on India, it adds that the estimated number of stateless persons in India is 60,000, which many observers consider to be an underestimation. Published in 2014, it does not naturally include hundreds of Rohingyas who have sought asylum in India in 2015–16. In another report, relating to ‘Refugees, Asylum-Seekers, Internally Displaced Persons (IDPs), Returnees (Refugees and IDPs), Stateless Persons and Others of Concern to the UNHCR by Countries/ Territory of Asylum’ at the end of 2013, the UNHCR states that refugees in India number 188,395; people in refugee-like situations: nil, total refugees and people in refugee-like situations—188,395, of whom assisted by the UNHCR—22,721; asylum seekers (pending cases)—3,675; returned refugees—nil; IDPs protected/assisted by UNHCR, including people in IDP-like situations—nil; returned IDPs—nil; people under UNHCR stateless mandate—nil; miscellaneous—nil; total population of concern—1,92,070. As far as the number of stateless people in India is concerned, the above mentioned table is of no assistance.

The deplorable conditions under which the stateless people of Indian origin live in Myanmar had been highlighted by the Singhvi Committee Report. To quote, the Indians are, ‘impoverished in Myanmar. The more prosperous elements have left the country, following waves of nationalisation, and other socialistic measures pursued by the Burmese governments. The educational scene is pathetic. At one time, the faculty and alumni of the University of Rangoon was comprised mainly of Indians. Today, there are hardly any Indian students in the universities, the reason being Indian students were denied admission between 1984 and 1988.

The challenge of statelessness in India has to be analysed from two angles. The first is to estimate and find a solution to the problem of stateless people within India. Equally relevant are the problems associated with the stateless people of Indian origin who live outside India. The Singhvi Committee Report on the Indian Diaspora, published in 2002, on the basis of information provided by the Indian Embassies abroad, has given details of stateless people of Indian origin

who live outside India. They number: Brunei—100; Canada—1,000; Finland—10; Italy—71,500; Jamaica—61,500; Japan—10,000; Jordan—930; Kazakhstan—1,127; Kenya—2,500; Korea, North—5; Korea, South—2,700; Kuwait—2,95,000; Kyrgistan—100; Laos—125; Lebanon—11,025; Libya—12,400; Lithuania—5; Madagascar—1,000; Malaysia—50,000; Myanmar—400,000; Netherlands—2,000; Philippines—12,000; Switzerland—300; and Venezuela—10. Here again, the figures have been challenged. According to HINDRAF, the number of people of stateless origin in Malaysia is around 100,000.

### **Citizenship Provisions under the Indian Constitution**

The Constitution of India provides for citizenship in five ways: (1) By Birth; (2) By Descent; (3) By Registration; (4) By Naturalisation; and (5) By incorporation of new territory. In 1955, the Indian Citizenship Act was enacted for ‘acquisition and termination of Indian citizenship’. Indian citizenship was also conferred by bilateral agreements. Thus, under the two agreements between India and Sri Lanka, the Sirimavo–Shastri Pact of 1964, and the Indira Gandhi–Sirimavo Pact of 1974, it was agreed to confer Indian citizenship on 600,000 people of Indian origin, plus their natural increase, residing in Sri Lanka as stateless persons. Sri Lanka, in turn, agreed to confer Sri Lankan citizenship on 3, 75,000 stateless persons plus their natural increase.

The debate in the Constituent Assembly on citizenship provisions throws light on the vision, commitment and far-sightedness of Y. D. Gundevia, distinguished Indian diplomat, who was, at that time, Ambassador in Burma. In his book, *Outside the Archives*, Ambassador Gundevia has given a detailed account of the issues involved. Dr. Ambedkar, Law Minister, emphatically maintained that Indian citizenship should go strictly by domicile. Article 5 of the Constitution lays down an overarching provision for deciding who should be a citizen of India at the commencement of the Constitution. It provides that any person, who was, or either whose parents were, born in the territory of India, or who has been ordinarily resident in India for at least five years before the commencement of the Constitution, shall be deemed to be a citizen of

India, if he had domicile in the territory of India at such commencement. The article, it must be pointed out, is silent on the definition of domicile and left the matter to the Supreme Court to decide. According to the Supreme Court, in the case of *K. Mohammad V the State of Kerala* and others, by domicile ‘is meant a permanent home. Domicile means the place in which a person is fixed as a habitation on himself and his family, not for a mere special and temporary purpose, but with a present intention of making it his permanent home.’

The Article did not provide for citizenship to the people of Indian origin who were living in Burma at that time. Burma was part of British India till 1937, and a large number of Indians migrated from India to Burma; that is, from one province to another. Y. D. Gundevia felt that they must be given the opportunity to acquire Indian citizenship. He came to New Delhi, and spoke to Jawaharlal Nehru. Nehru also felt that such a provision was essential to safeguard the interests of the people of Indian

Statelessness, among the people of Indian origin, who live outside India, is closely interlinked with the migration of Indian workers to various British colonies during the colonial period. The development of the colonial economy, especially the starting of the plantations, required docile, cheap labour, and India fulfilled the need. Large numbers of Indian workers migrated to Ceylon, Malaya, South Africa, Mauritius, Fiji and other countries. The British government maintained that Indian workers enjoyed the same rights and privileges as the indigenous people, but, in reality, they were exploited and subjected to varying forms of discrimination. Women workers suffered gender discrimination, physical violence and sexual abuse.

origin, who were living outside India. Nehru told Gundevia that Dr. Ambedkar was adamant that citizenship should go strictly by domicile. Nehru, however, added that Pandit Hriday Nath Kunzru was one person who could influence Dr. Ambedkar on the subject. Gundevia met H. N. Kunzru and persuaded him to raise the matter in the Constituent Assembly. As a result, the Constitution incorporated provisions by which people of Indian origin could register themselves as Indian citizens in the Indian Embassies of the countries in which they have settled.

### **Statelessness—Legacy of the Past**

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The cause of Indians Overseas was very dear to the heart of Mahatma Gandhi, Jawaharlal Nehru and other nationalist leaders. Before Independence, the final day of the annual session of the Indian National Congress was devoted to discussion of the challenges facing Indian communities living abroad. Indian nationalist leaders visited various countries which had an Indian element in the population. In 1939, Nehru visited Ceylon to study the problems of Indian labourers who were retrenched by the Colombo Municipality. He came face to face, not only with the deplorable conditions in which the Indian workers lived, but also with the chauvinist stance of Sinhalese political leaders. On his return, he persuaded C. Rajagopalachari, Prime Minister of Madras Presidency, to terminate the recruitment of Indian labour for work in Ceylon.

In the course of his visit to Malaya in 1945, Jawaharlal Nehru said, 'Today India is helpless, but a day would come when the strong arm of India would protect the interests of Indians Overseas'. The hope that New Delhi would pursue an enlightened policy towards Indians Overseas after Indian independence was soon shattered. The British government left the future of the Indian communities at the mercy of the chauvinist leaders of Ceylon and Burma, who assumed political power after independence. These leaders took shelter under the concept of sovereignty and domestic jurisdiction, and enacted citizenship legislations which excluded the majority of the Indian population. New Delhi could not do anything, and began to detach itself from the Indian communities living abroad.

### **Sri Lanka—Indians Rendered Stateless**

The Indian Tamils or the *Malaiha* (hill-country) Tamils, as they would like to call themselves today, are the descendants of the Tamil labourers

who were taken to the island to provide the much-needed labour for the development of rubber, tea and coconut plantations, and also the construction of roads and railways, and the development of the Colombo port. It was their toil and sweat which turned the malaria-infested forests of Sri Lanka into tea plantations. The export of tea earned precious foreign exchange, and sustains the Sri Lankan economy even today. But the fruits of labour did not percolate to the plantation workers. Apply any yardstick—standard of living, longevity of life, educational attainments, status of women—they are at the bottom of the ladder. What is more, soon after independence, the Ceylon Government rendered them stateless. The Ceylon Citizenship Act of 1948, and the Indian and Pakistani Residents Act of 1949, not only disfranchised the Indian community, but they also rendered them stateless. The provisions of the Act were cumbersome and difficult to fulfil. Pieter Kuneman, distinguished member of Parliament, pointed out that even Prime Minister D. S. Senanayake could not comply with the clauses because, according to his own admission, he could not trace his father's birth certificate.

The citizenship provisions were gross violations of Article 15 of the Universal Declaration of Human Rights which states: (1) everyone has the right to nationality, and (2) no one shall be arbitrarily deprived of his nationality, nor denied the right to change his nationality. Pointing out the unjust features, Paul Sieghart, the Chairman of the Executive Committee of the British section of the International Commission of Jurists, has pointed out:

If one takes the view that all residents of Ceylon who were British subjects immediately after independence became citizens of Ceylon on independence, then these people were deprived of that citizenship through the enactment of the new law; if the status of the citizen of Ceylon did not come into existence until that Law was passed, then they were deliberately excluded from the automatic acquisition at that time. Whichever view one takes, the result today is a wholly arbitrary deprivation of the fundamental right to the citizenship of one's country for a group of people, almost all of whom were born there, who had lived there all their lives, who have never been anywhere

else and have no other allegiance and who have made an immense contribution to that country's wealth while being themselves allotted only a derisory share of it.

### **India–Sri Lanka Agreements of 1964 and 1974**

The problem of statelessness vitiated India's relations with its southern neighbour during the early years of Independence. Jawaharlal Nehru maintained that the Indian workers were a permanent feature of the demography of Sri Lanka, and taking into consideration their contribution to the economic prosperity of the country, appealed to the Sri Lankan government to confer citizenship on them. Those who wanted to voluntarily come back to India would be conferred Indian citizenship. On the other hand, it was Colombo's assumption that the Indian workers were Indian nationals, and those who failed to fulfil the citizenship requirements were India's responsibility. What is more, it was India's policy to discourage Indians Overseas from taking Indian citizenship. The era of statelessness continued, and the problem appeared interminable.

With Lal Bahadur Shastri as the Prime Minister, and C. S. Jha as the Commonwealth Secretary, New Delhi reversed its earlier principled stance and began to adopt a new approach on the question of stateless people of Sri Lanka. New Delhi was eager to come out of the 'diplomatic isolation' in South Asia following the Sino–Indian conflict of October–November, 1962. New Delhi's desire to solve the problem on the basis of 'give and take' becomes apparent if one reads C. S. Jha's reminiscences, *From Bandung to Tashkent: Glimpses of India's Foreign Policy*. The astute politician that Sirimavo Bandaranaike was, she made the best use of the situation and clinched the issue in October 1964. The result was the Sirimavo–Shastri Pact of 1964, to which reference has been made earlier. By another agreement in 1974, the residue of the stateless was equally divided between India and Sri Lanka.

A few significant features of the two agreements must be underlined. The agreements which had a great bearing on the lives of thousands of people of Indian origin were concluded without taking into consideration the

wishes of the affected people. Thondaman, the undisputed leader of the Indian Tamil community, told the author that he was not given a visa to come to New Delhi and make representation to the Indian government. To quote Thondaman:

We are a community of human beings with soul, mind and body with personality and cannot be apportioned between countries like beasts of burden at other's whims and fancies only to maintain good neighbourly relations. Humanity cannot be converted to merchandise in this modern age.

The two agreements were also a bad precedent, as far as India's policy towards Indians Overseas is concerned. If India could take back people of Indian origin from Sri Lanka as Indian citizens, why not those from Malaysia, South Africa and Fiji?

I had the opportunity to meet Sri Lankan repatriates in January 1983 at Hatton railway station. All of them were in tears, and they did not know what the future held for them in Tamil Nadu. The feelings of the repatriates were summed up succinctly by Gopal Krishna Gandhi in his novel *Refuge*.

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We came to this island, because our land could not sustain us. I remember how parched the earth was, how hungry we were in our village in Arur in Pudukkottai. My father said, 'Come, let us go and register in the Ceylon office'. And so we registered and came here. We came in order to be able to work, to eat ... And now we have lost all links with our native land, when we had sent our roots deep into this soil, like the tea bushes planted by us, we are told ... that we do not belong here, that we must go back to India, that if we stay on we will have no rights. Is this just? Is this fair?

## **End to Statelessness in Sri Lanka**

If the intention of the two governments was to put an end to the problem of statelessness, it must be highlighted that the goal remained a distant dream. Meanwhile, the Ceylon Workers Congress (CWC) started working with the United National Party (UNP), and joined the government in 1978. With a judicious mix of parliamentary and extra-parliamentary struggles, the CWC was able to extract major concessions from the recalcitrant government. According to the Sri Lankan government, the number of stateless people of Indian origin was 94,000, plus their natural increase. They were given citizenship by a parliamentary enactment on 8 November 1988.

The problem of the residue of the Sirimavo–Shastri Pact still remained. Though repatriation of Indian citizens was to have been completed by October 1981, the target could not be fulfilled. Repatriation was a slow process. In October 1981, the Government of India, in a bold decision, decided not to receive any more applications for Indian citizenship. And when the communal violence took place in July 1983, the shipping service between Talaimannar and Rameshwaram was suspended. Repatriation by sea came to an end.

According to the Policy Note issued by the government of Tamil Nadu, a total number of 4,59,410 persons were repatriated to India by February 1986. Of these, 3, 33,483 persons were covered by the two agreements, and the balance 1,25,567 represented natural increase. They constituted 1,15,483 families. The intensification of the ethnic conflict in Sri Lanka resulted in an exodus of Tamils to India as refugees. The camp in Mandapam which was used by the repatriates was allotted to refugees. What is more, as mentioned earlier, shipping services between the two countries were suspended. Consequently, the return of repatriates by sea came to an end. As time went on, those who were conferred Indian citizenship, and could not come back to India, also wanted to acquire Sri Lankan citizenship. Their cause was taken up by the CWC and other trade unions. And finally, the Sri Lankan Parliament enacted a law on 7 October 2003, by which the residue of the Sirimavo–Shastri Pact, yet

to be repatriated to India, plus their natural increase, was granted Sri Lankan citizenship.

### ***Malaiha* Tamil Refugees in Tamil Nadu**

The *Malaiha* Tamils in Sri Lanka realised very early that a separate state of Tamil Eelam was not in their interests. Located in the heartland of the Sinhalese, they naturally wanted to live amicably with the Sinhalese population. And, as mentioned earlier, the CWC became a part of the government in 1978. But disassociation from the demand for a separate state did not mean security to them. They were subjected to vicious and savage attacks by Sinhalese hoodlums in 1977, 1981 and 1983. Their feelings were summed up by R. R. Sivalingam, the Indian Tamil activist, as follows:

The Tamils in Sri Lanka are in anguish. We are searching ourselves. Is it a crime to be a Tamil in this country? Our convictions have all been shattered. Generations of effort to build a base of life have all been shattered to smithereens in a matter of few hours. How long?? Oh, how long will it take for us to feel as brothers and sons of the soil?

After the 1977 riots, sections of Indian Tamils began to migrate to the Northern Province in search of physical security. They felt that in a Tamil-dominated area, their lives would not be in jeopardy. What is more, organisations like the Gandhiyam, under the leadership of Dr. Rajasundaram, were committed to bridging the divide between the two Tamil communities. They began to champion the cause of integrated living. The migrant Indian Tamil workers became landless labourers and worked for Sri Lankan Tamil landlords, who were eager to bring more land under the plough. Soon, Gandhiyam was infiltrated by the Tamil militants, and came under government search operations. Dr. Rajasundaram was detained; he was later killed by Sinhalese goons in Wellikade jail. The end result was that the Indian Tamils were caught between the Sinhalese Lions and the Tamil Tigers, and became innocent victims in the savage conflict between the two. Fearing for their lives, they were one of the earliest to come to Tamil Nadu as refugees. The

1983 riots affected Colombo and the plantation areas in a big way. Many Indian Tamils sold all their belongings, and came to India as refugees. After a lapse of nearly three-and-a-half decades, it must be pointed out that they have no links with the island nation. Their children, born and educated in India, are not familiar with any country except India. And, what is more, they hope and pray that they would be conferred Indian citizenship.

### **Indian Diaspora Sitting on the Fence**

While the citizenship provisions in Burma and Sri Lanka discriminated against the people of Indian origin, both the Colony of Singapore and Federation of Malaya enacted citizenship legislations which were fair to the immigrants. In 1958, Singapore enacted citizenship laws under which, as British subjects, Indians could apply for Singapore citizenship, with a residential qualification of two years. On acquiring Singapore citizenship, they were required to surrender Indian citizenship. But many Indians did not avail of the opportunity, and preferred to sit on the fence. Nor did the Indian diplomats succeed in persuading them that it was in their best interest to take up Singapore citizenship. The non-citizens had to leave Singapore and come to India, especially after the closing down of the British military bases. The result was that the Indians who numbered 8.6 per cent of the population of Singapore in 1957 declined to 7.3 per cent in 2017.

When the Federation of Malaya became independent on 31 August 1957, the Constitution provided for *Jus Soli*, citizenship by birth. Sections of the Indian community, however, did not exercise the option in favour of Malaysian citizenship. After the ethnic riots in May 1969, the Malaysian government began to reserve jobs for citizens alone; as a result, the people of Indian origin, who had not taken Malaysian citizenship, were confronted with a big dilemma. They faced the prospect of unemployment and consequent return to India. But the good relations between Prime Minister Indira Gandhi, and Malaysian Prime Minister Tun Abdul Razak, and the Home Minister Dr. Ismail, saved the situation. The Malaysian government extended the date for receiving applications for the grant of

Malaysian citizenship. However, many preferred to return to India. As a result, the Indian population, which constituted 14.0 per cent of the population at the end of the Second World War, today has come down to 7.0 per cent.

### **India's Refugee Policy**

India has not enacted a national refugee law, nor has New Delhi ratified the UNHCR conventions on the refugees. Even then, India's record of the treatment of refugees has been commendable. Since the dawn of independence, India has received refugees from Pakistan (both West and East), Tibet, Bangladesh, Sri Lanka, Afghanistan, Nepal, Bhutan, Myanmar and other countries. It has been estimated that India has successfully tackled the problems associated with the inflow of 28 million refugees, roughly equivalent to the population of Canada.

India's refugee policy was based on three premises. Jawaharlal Nehru explained the three premises, with specific reference to Tibetan refugees, in Parliament in 1959: (1) India wants to maintain cordial relations with China; (2) protection of the security and territorial integrity of India; and (3) India's deep sympathy for the people of Tibet. Since there is no refugee law in India, refugees are treated as aliens. They are covered by the Registration of Foreigners Act (Central Act 16 of 1939), which is applicable to all foreigners. The Foreigners Act 1946 (Central Act 31 of 1946) empowers the state to regulate the entry, presence and departure of aliens in India. The Passport (Entry into India) Act, 1920 (Central Act 34 of 1920), and the Passport Act, 1967 (Central Act 15 of 1967) govern the entry and departure of persons. Further, under the Constitution of India, certain fundamental rights—right to equality (Article 14), right to personal life and liberty (Article 21), and freedom to practice and propagate their religion (Article 25)—are guaranteed to citizens and non-citizens alike. These provisions, it must be pointed out, are, in contrast to certain other rights in the Constitution—such as the right to move freely throughout the territory of India, reside and settle in any part of India, practise any profession in India, etc. (Article 19)—are available only to citizens.

It should also be pointed out that the judiciary has played a commendable role in protecting the rights of the refugees. In the famous case of *NHRC V State of Arunachal Pradesh*, the Supreme Court held that ‘The State is bound to protect the life and liberty of every being, be it a citizen or non-citizen’. The National Human Rights Commission also acts as a watch dog as far as refugee rights are concerned.

### **BJP Government’s Welcome Initiatives**

The Bharatiya Janata Party (BJP) had been relatively more sensitive to the problems faced by the Indian Diaspora. It may be recalled that Prime Minister A. B. Vajpayee appointed a Committee under the chairmanship of L. M. Singhvi to study the problems faced by the Indian Diaspora, and make recommendations to strengthen the links between India and Diasporic Indian communities. Following the recommendations of the Singhvi Committee, Pravasi Bharatiya Divas is celebrated every year; the most distinguished among the Diaspora are honoured by the government. The government has also introduced Overseas Indian citizenship for Diasporic Indians. Prime Minister Narendra Modi has made it a point to address Diasporic Indians whenever he makes an official visit to any foreign country. And, what is more, Minister for External Affairs, Sushma Swaraj, works round the clock when Diasporic Indians face problems of physical security. It must be underlined that earlier governments had also done excellent work. To cite an example, when the Iraqi invasion of Kuwait took place, I. K. Gujral, then Minister for External Affairs, ensured that Indians stranded in Kuwait were quickly evacuated and brought back to India.

One negative aspect of India’s policy deserves mention. Because of their clout and linkages with the powers that be in New Delhi, the problems of Diasporic communities in developed countries receive a lot of attention. At the same time, those

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### **Amendment to the Citizenship Act, 1955**

The BJP as a political party, and the BJP-led government after it assumed power, had been very sensitive to the problems faced by the Hindu communities in Pakistan, Afghanistan and Bangladesh. Attempts to build the nation on the basis of Islam, increasing popularity of obscurantist Islamic political parties, forcible conversion to Islam, assassination of Hindu priests and destruction of Hindu places of worship have become common occurrences in these three countries. Over the years, the Hindu population has shown a steady decline. The Hindus do not occupy high positions in important walks of life like the armed forces, diplomacy, teaching, law and medicine. The more daring among the discriminated Hindus take the risk, cross the borders and have taken asylum in India. Conferment of Indian citizenship on these unfortunate children of Mother India will definitely be an act of magnanimity, and will be welcomed by all sections of the Indian population. In the manifesto to the 2014 parliamentary elections, the BJP had promised to confer citizenship on Hindu refugees. After coming to power, the concerned ministries were asked to speed up the administrative and legal procedures. The government introduced a bill in Parliament in 2016 to amend certain provisions of the Citizenship Act, 1955. The Bill has been referred to the Parliamentary Select Committee, and its recommendations are awaited.

The objective of the Bill is to enable Hindus, Buddhists, Sikhs, Jains, Parsis and Christians who have fled to India from Pakistan, Bangladesh and Afghanistan, without any travel documents, or whose valid travel documents have expired in recent years, to acquire Indian citizenship by the process of naturalisation. Under the Bill, such persons will not be treated as illegal immigrants for the purpose of the Citizenship Act. In another amendment, the aggregate period of residential qualification for

the purpose of citizenship by naturalisation of such persons is proposed to be reduced from 11 years to six years. A large number of people who would otherwise be illegal immigrants can now heave a sigh of relief if the Bill is enacted as law, as they would become eligible to become Indian citizens.

As mentioned earlier, the Citizenship Bill owes its genesis to the assurance given by the Prime Minister that Hindus from these three countries who have sought asylum in India would be conferred Indian citizenship. But singling out Hindus alone would be discriminatory; the Bill has extended the right to acquire citizenship to non-Muslim minorities living in these countries. The Bill, when passed, would be of immense benefit to the Chakmas and Hajongs of Bangladesh, displaced because of the construction of the Kaptai dam, and who had been refugees for more than 65 years. The Supreme Court in *Committee for C.R. of CAP vs State of Arunachal Pradesh* directed the Government of India and the government of Arunachal Pradesh to grant citizenship to eligible persons from these communities, and protect their lives and liberty, and further prohibited discrimination against them.

The proposed Bill recognises and protects the rights of the refugees, and represents a welcome change in India's refugee policy. But it would have been appropriate if the Bill had used the term 'persecuted minorities' instead of listing non-Muslim minorities. To give an example, the Ahmediyas are not recognised as Muslims in Pakistan, and are subjected to many acts of discrimination. Other groups include Rohingyas, who being Muslims, are subjected to discrimination in Myanmar. 40,000 of them have already come to India. Such a gesture would also have been in conformity with the spirit of linguistic and religious rights of the minorities guaranteed under our Constitution. Unfortunately, the Bill does not take note of the refugees in India from the Muslim community who have fled due to persecution, and singles out on the basis of religion, thereby being discriminatory.

The proposed amendment is being opposed in Assam by certain sections because they feel that the indigenous people in the state would be

outnumbered by migrants from Bangladesh who would become eligible for Indian citizenship. Yet another disappointing feature of the Bill is that it does not confer Indian citizenship on *Malaiha* Tamil refugees from Sri Lanka, who have come to India as refugees following the communal violence in July 1983. They number, as mentioned earlier, 29,500. All of them qualify for Indian citizenship under Article 5 of the Citizenship Act of 1955. However, their plea for citizenship has been negative, citing a Central Government circular that Sri Lankan refugees are not entitled to Indian citizenship. In a communication dated 21 November 2007 to the Special Commissioner for Rehabilitation, the Secretary to the Government of Tamil Nadu mentioned that there are strict instructions from the Government of India ‘not to entertain applications of Sri Lankan refugees for the grant of Indian citizenship’. I submit, in the light of the recent initiatives, that the above-mentioned circular of the Government of India must be immediately withdrawn.

The tragedy of the *Malaiha* Tamils, many of whom are Dalits, is that they do not have a constituency in Tamil Nadu. The DMK and the AIADMK governments consistently ignored them. And the drummer boys of the LTTE—Nedumaran, Vaiko, Veeramani, Thirumavalavan—never utter a single word in support of these people of Indian origin. The BJP government in New Delhi should at least take a sympathetic attitude towards them. The Amendment Bill should also encompass the people of Indian origin in Sri Lanka, who have come to Tamil Nadu as refugees.

## **ABOUT THE AUTHOR**

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