

**Belonging in Exile and “Home”: The Politics of Repatriation  
in South Asia**

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## ABSTRACT

My dissertation discusses refugee rights and post-repatriation integration in South Asia in the context of debates over “citizenship.” Postcolonial state-formation processes in South Asia have profoundly shaped questions of belonging and membership. As a result, official citizenship has become an important marker of group inclusion and exclusion in South Asian states. Using the literature on citizenship, I discuss the “belonging” claims of non-citizens (refugees) and argue that in practice this “belonging” extends beyond the state-centric “citizenship” view of membership. In doing so, I address two sets of interrelated questions: what factors determine whether or not refugees will be repatriated in South Asia, and why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states? I answer these questions through a study of refugees from Sri Lanka and Bangladesh who sought asylum in India and were later repatriated to their countries of origin. The politics of postcolonial state-formation and subsequent discriminatory policies on language in Sri Lanka and non-recognition of the Jumma people in Bangladesh encouraged many citizens to flee to India as refugees. I argue, first, that India’s state-centric politics of non-recognition of the two refugee groups contributed to their later repatriation. In the absence of rights and status in exile, refugees turned to “home” as a place to belong. I then analyze the post-repatriation variations in accommodation in Sri Lanka and Bangladesh as most refugees attempted to reclaim the lost identity and “citizenship” at “home” through the process of repatriation. However these countries pursued strategies of limited accommodation, which led to the minimal or partial re-integration of the two returnee-refugee groups.

## RÉSUMÉ

Ma dissertation discute les droits de réfugiés et leur intégration post-rapatriement en Asie du Sud dans le contexte des discussions sur la «citoyenneté». Les processus de formation d'état postcolonial en Asie du Sud ont profondément formé les questions d'appartenance et d'adhésion. En conséquence, la citoyenneté officielle est devenue un marqueur important d'inclusion et d'exclusion de groupe dans les états sud asiatiques.

En utilisant la littérature sur la citoyenneté, je discute des réclamations d'«appartenance» des non-citoyens (réfugiés) et je présente l'argument qu'en pratique cet appartenance se prolonge au-delà de la vue état-centrale de «citoyenneté» de l'adhésion.

De cette manière, j'adresse deux ensembles de questions en parallèle: Quels facteurs déterminent si des réfugiés seront rapatriés en Asie du Sud? et Pourquoi quelques groupes rapatriés se re-intègrent-ils avec plus de succès que d'autres dans les états sud asiatiques d'«après-paix»?

Je tente de répondre à ces questions par l'intermédiaire d'une étude des réfugiés du Sri Lanka et du Bangladesh qui ont cherché l'asile en Inde et plus tard ont été rapatriés à leurs pays d'origine. La politique de la formation d'état postcolonial et des politiques discriminatoires sur la langue au Sri Lanka et la non-reconnaissance des personnes de Jumma au Bangladesh résultants ont incité plusieurs citoyens à se réfugier en l'Inde. En premier lieu, je souligne que la politique de l'état-central de l'Inde de la non-reconnaissance des deux groupes de réfugiés a contribué à leur rapatriement. En absence des droits dans leur statut en exil, les réfugiés se sont tournés vers la «patrie» comme l'endroit d'appartenance. J'analyse par la suite les variations de logement au Sri Lanka et au Bangladesh en état post-rapatriement. Bien que les réfugiés aient essayé de reprendre



l'identité et la citoyenneté perdues à la patrie par le processus du rapatriement, leurs pays d'origine ont poursuivi des stratégies de logement limité menant à la réintégration minimale ou partielle des deux groupes de réfugiés-retournés.

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despite the sudden loss, I still feel your presence in every step I take...*

## ABBREVIATIONS

ACTC	All Ceylon Tamil Congress
AL	Awami League
APC	All Part Conference
B-C	Bandaranaike-Chelvanayakam Pact
BNP	Bangladesh National Party
BR	Bangladesh Rifles
BSF	Border Security Forces
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CFA	Ceasefire Agreement
CHT	Chittagong Hill Tracts
CHTDB	CHT Development Board
CHTRC	CHT Regional Council
CWC	Ceylon Worker's Congress
DC	District Councils
DM	District Magistrate
ENCLF	National Democratic Liberation Front
ENLF	Eelam National Liberation Front
EPRLF	Eelam People's Revolutionary Liberation Front
EROS	Eelam Revolutionary Organisation of Students
FP	Federal Party
GA	Government Agent
GoI	Government of India

GoSL	Government of Sri Lanka
GoT	Government of Tripura
HSZ	High Security Zone
IA	Interim Government/ Administration
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
IDP	Internally Displaced Persons
IPKF	Indian Peacekeeping Forces
ISGA	Interim Self-Governing Authority
JD	Jatiyo Dal
JRWA	Jumma Refugee Welfare Association
JSS	Jana Samiti
JVP	Janatha Vimukthi Peramuna (People's Liberation Front)
LTTE	Liberation of Tamil Tigers Eelam
MOCHTA	Ministry of CHT Affairs
MRRR	Ministry of Rehabilitation, Resettlement and Refugees
MRRR	Ministry of Relief, Rehabilitation and Reconciliation
NAC	National Advisory Council
NC	National Committee
NEP	North-Eastern Province
NERP	Northeast Reconstruction Fund

NHRC	National Human Rights Commission
ORC	Open Relief Camps
PA	People's Alliance
PAC	Provincial Administrative Council
PC	Provincial Councils
PCJSS	Parbattya Chattagram Jana Sangha Samiti
PLOTE	People's Liberation Organisation of Tamil Eelam
PORC	Pessalai Open Relief Camp
PSC	Parliamentary Select Committee
R&R	Department of Relief and Rehabilitation
RHC	Regional Hill Council
RRAN	Reconstruction of North and Tamil Affairs of the North East
RRRD	Resettlement, Rehabilitation, Reconstruction and Development
RWAT	Refugee Welfare Association in Tripura
S.D.O.	Sub-Divisional-Officer
SAHRDC	South Asia Human Rights Commission
SB	Shanti Bahini
SCCHT	Special Committee for the CHT
SDN	Sub-Committee of De-Escalation and Normalization
SIHRN	Immediate Humanitarian and Rehabilitation Needs of the Northeast
SLA	Sri Lanka Army

SLFP	Sri Lanka Freedom Party
SLMM	Sri Lankan Monitoring Mission
TELA	Tamil Eelam Liberation Army
TELO	Tamil Eelam Liberation Organisation
TFC	Task Force Committee
TPP	Tribal People's Party
TUF	Tamil United Front
TULF	Tamil United Liberation Front
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UPDF	United Peoples' Democratic Front
USAD	United States Department of Agriculture
WC	Welfare Centres
WFP	World Food Program Aid
ZOA	Zovis Ois Aisia

# CHAPTER 1

## *Introduction*

Recently, the United Nations High Commissioner for Refugees (UNHCR) has reported an unprecedented decrease in the number of “refugees of concern”<sup>1</sup> throughout the world from 18 million in 1992 to 9 million in 2004.<sup>2</sup> Much of this decline has been attributed to a decrease in the conflict-induced refugee generation. But in spite of this overall decrease in refugee numbers, conflict-induced refugees continue to face several problems both in the countries of origin and countries of asylum. Most of these problems can be seen at three stages: during exile, during repatriation, and post-repatriation. Some of these problems are related to state-centric views of rights as determined by the state, as well as to improper refugee assistance and protection. To understand the issue of belonging,<sup>3</sup> first in exile and later at “home,”<sup>4</sup> my dissertation investigates the problem of refugee repatriation in relation to two refugee groups in South Asia: the Chakma/ Jumma<sup>5</sup>

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<sup>1</sup> From the perspective of the UNHCR, “refugees of concern” refers to refugees under the jurisdiction of the organisation.

<sup>2</sup> UNHCR, *The State of World Refugees: The Challenge of Protection* (Middlesex: Penguins Books, 1993); Figure A: Global Number of Refugees: 1960-1992; *Refugees by Numbers* (2005 web edition).

<sup>3</sup> “Belonging” is normally determined on the basis of citizenship rights within a territorially demarcated state. The literature on “belonging” tends to view rights attached to a particular territory and identity (cultural) derived as a result of this. In the dissertation I investigate principles of belonging based on rights derived from a territory by non-citizens, i.e., mostly refugees and aliens. I draw from the literature on citizenship to understand claims of belonging, and I make a case for refugee rights in exile. But I do not make claims of refugees rights based on any specific identity; rather, I use this aspect of belonging as a take-off point to analyze possible claims made by those (refugees) who seek rights through movement across international borders, and states that prevent such claims.

<sup>4</sup> I have elaborated on these viewpoints in chapter 2, *Debating Belonging in Exile and “Home”: A Case of South Asia*.

<sup>5</sup> The minorities of independent Bangladesh viewed the state project as the majoritarian group’s efforts to consolidate power over the nominal minorities, with the intention to override pluralist tendencies. In Bangladesh, the lack of accommodation for the 13 ethnic minorities in the CHT region flared up when the Mijib-ur-Rahman attempted to declare that every citizen in Bangladesh must proclaim their status as “Bengali.” Together, the paharis (or hill people, that is, the Chakma/ Jumma) share distinctive ethno-linguistics identities and are different from the people of the plains of Bangladesh (samathalbashis)— for example, the Bengalis—in respect to social customs, food, dress, and techniques of agriculture. In the 19<sup>th</sup>

in Bangladesh and the Tamils in Sri Lanka, both of which sought exile in India.

In the dissertation, I discuss “belonging” to be the citizenship<sup>6</sup> rights within a territorially demarcated state as members derive recognition by virtue of their legal status within the territorial structure of these states. However, claims of belonging can emanate from various groups, i.e., both citizens and non-citizens. The two refugee groups studied in the dissertation are the Chakma<sup>7</sup> and the Tamils, from Bangladesh and Sri Lanka respectively. The Jumma in Chittagong Hill Tracts,<sup>8</sup> Bangladesh are comprised of 13 groups of ethnic minorities who are engaged in a struggle to retain their distinctive identity as “paharis,” or hill people, and maintain their status as an exclusive category. The Chakma refugees sought asylum in India as a result of state-led suppression of minorities in the Chittagong Hill Tracts. The Tamils in Sri Lanka, on the other hand, are a predominant minority group in Sri Lanka and are also engaged in conflict with the majority community, the Sinhalese, to belong to “their original place of habitation.”<sup>9</sup> The Tamils in Sri Lanka fiercely contest the notion of belonging that is determined by the

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century, the chiefs of the Chakmas (the Chakma Raja/ king), the Chief of the Marmas of the southern areas known as the Bhomong Raja, and the Chief of the Marmas of the northern area known as the Mong Raja achieved hegemony over the other ethnic communities because they were educated. British authorities, the first foreigners to enter the region, brought about the slow process of modernization.

<sup>6</sup> Most states have adopted citizenship rights based on nationality, but in this dissertation, I make a case for the need of citizenship for refugees that is not the legal-status as seen by the state, but rather a status that would strengthen the position of refugees based on statist-led hierarchy of belonging.

<sup>7</sup> The Jumma is a collective of 11-13 ethnic minorities in Chittagong Hill Tracts, Bangladesh. The predominant group among them is the Chakma community. The Jumma or the hill people or pahari terms are used interchangeably.

<sup>8</sup> The CHT region occupies a physical area of 5093 square miles constituting 10 percent of the total land area of Bangladesh. The region comprises of three districts of Rangamati, Khagracharri, and Bandarban. The region holds special strategic interest for Bangladesh as it is surrounded by Indian states of Tripura on the north, Mizoram on the east, by Myanmar (formerly known as Burma) on the south and east, and by Chittagong district on the west. The region is rich in natural resources. In 1991, the CHT had a population of 0.97 million, of which the hill people constituted 0.50 million and Bengalis 0.47 million. Eleven ethnic groups populate the CHT region: Bawn, Chak, Chakma, Khami, Kheyang, Lushai, Marma, Mrung, Pankho, Tanchagya, and Tripuri.

<sup>9</sup> The Tamil groups laid claims on northeastern parts of Sri Lanka as part of their original place of habitation. The concept assumed significance in the aftermath of Indo-Lanka Accord in 1987, which recognized these territories as “areas of historical habitation of the Tamil-speaking population.”

dominant Sinhalese community through policies of marginalization and over emphasis on the Sinhalese language and Buddhist religion. It was under these circumstances that Tamils and Chakma refugees were forced to seek asylum in India.

India does not have any specific refugee law or legislation to provide assistance and protection, but it has developed a state-centric view on the rights of non-citizens. The onus is on the individual seeking refugee status in India to prove “the fear of persecution”<sup>10</sup> at the time they seek asylum. Presently, refugees are “illegal” persons or foreigners under the Foreigners’ Acts,<sup>11</sup> as they have undefined status<sup>12</sup> during the period in exile. The influx of refugees is handled at the political and administrative levels applicable to aliens,<sup>13</sup> which is undefined in the Constitution of India. The manner in which the Indian state constructs the concept of citizenship influences the status of refugee claimants and the broader politics of repatriation. I address repatriation patterns in

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<sup>10</sup> The 1951 Convention on the status of refugees defines *refugees* as those “owing to *well-founded fear* of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, outside the country of his nationality and is unable or, owing to such fear, is willing to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (emphasis added).

<sup>11</sup> The Foreigners’ Act of 1946 defines the meaning of a *foreigner* as a “person who is not a citizen of India” and empowers the central government to regulate the entry and exit of “aliens” in India. The Registration Act of 1939 deals with the registration of foreigners, and the Passport Act of 1920 and the Passport Act of 1967 empower the Government of India to impose conditions of passport entry into India, to issue travel documents, etc.

<sup>12</sup> The state can normally bestow legal status as per the rule of citizenship laws of the country. This status protects persons from the infringement of their rights and gives them a foundation from which to have recourse to the law, if needed. It is a legally ordained position as per the constitution of the country.

<sup>13</sup> B. S. Chimni, “The Legal Conditions of Refugees in India,” *Journal of Refugee Studies* 7, no. 4, (1994): 379. Chimni asserts that the terms *aliens* and *foreigners* are used interchangeably and both denote a category of people who do not legally belong within the territory of India, meaning “a person who is not a citizen of India.” These terms appear in various parts of the Constitution (Art. 22 part 3, and Entry 17, List I, Schedule 7), in Section 83 of the Indian Civil Procedure Code, and in Section 3 (2) (b) of the Indian Citizenship Act, 1955, as well as in some other statutes. Several of these acts have relevance to the regulation of alien-like people (such as refugees and migrants) in India, including the Foreigners’ Act of 1946 that regulates the entry and exit of aliens in India; the Registration Act, 1939 that deals with “registration of foreigners” entry and exit in the dominion of India; and the Passport (Entry into India) Acts of 1920 and 1967 that empower the central/ federal government of India to impose conditions on entry and departure from India. However, even though none of these Acts or Registration discusses the growing number of refugees in India or their rights under the Constitution, the central/ federal government imposes restrictions based on them.



India and their subsequent impact on the integration of Chakma/ Jumma and Tamil refugees in a post-repatriation context. I argue that the politics of the non-recognition of refugees, migrants, and other “aliens” in a country of asylum has its root in the state-centric policies about rights, which is reflected in strategies of preferential treatment<sup>14</sup> of a few refugee communities. But the non-recognition policy of two refugee groups explains the reasons for the asylum state’s (India) prevention of refugees from assimilating at the societal level (through a denial of rights, protection, and assistance), despite the asylum state sharing an ethnic affinity and good relations with the refugees’ country of origin.

This dissertation further probes the motivation of the asylum state in the process of repatriation and subsequently investigates the aftermath of repatriation in the countries of origin, specifically in relation to the postcolonial state-formation in South Asia. I examine two refugee groups, the Tamils and Chakma in India, in relation to their rights in exile and argue that the demands of non-citizens in exile must be addressed as legitimate concerns. But most asylum states adhere to state-centric views on citizenship and thus do not confer status of any kind upon non-citizens. In this context, I contend that if problems of belonging were not in part caused by statist-led claims, then the rights of non-citizens would be secure and would not be subjected to the arbitrariness of state officials.

Secondly, I evaluate the present status of post-repatriation returnees in countries of origin to assess their re-integration in Bangladesh and Sri Lanka. I analyze this problem from two perspectives: from the point of view of the country of origin and from that of

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<sup>14</sup> There have been instances when the asylum state had been a little more accepting of some refugees in relation to basic provisions such as living conditions and a regular ration distribution, e.g. the Tibetan refugees in India.

the returnee-refugees. The limited accommodation<sup>15</sup> in the countries of origin was reflected in the manner in which two returnee-refugee groups were integrated in Bangladesh and Sri Lanka. The data collection in these two countries indicates that both refugee groups are badly off, but one group appears to be marginally worse off than the other. I discuss the different experiences of Chakma/ Jumma and Tamil returnees in their countries of origin and assert that despite similarities in preconditions and structural conditions in the two refugee groups, the Jumma refugees are marginally worse off politically and economically. The continuation of peace was a condition essential to the repatriation of refugees from India; that is, the beginning of the peace process or the signing of the Peace Accord<sup>16</sup> would establish and secure the nexus between the stability of the peace process and the possible rehabilitation<sup>17</sup> of refugee groups in their countries of origin. The two refugee groups repatriated from India were sent back under circumstances either stipulated in the Peace Accord or ceasefire agreement (CFA). The Chakma refugees were repatriated as a result of the Peace Accord, and the Tamil from Sri Lanka on the basis of peaceful conditions or ceasefire agreements between the country of origin and insurgent groups engaged in the struggle for autonomy. The repatriation process clearly stipulated preconditions leading to *possible* rehabilitation in countries of origin. But understanding the inclusion of returnees in their respective countries of origin involves discussions by actors engaged in the rehabilitation of refugees in a post-peace-repatriation context. At the time of the fieldwork in Bangladesh, Chakma returnees were

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<sup>15</sup> By *accommodation*, I mean the manner in which issues of minority representation have been addressed in the politics of the state. Within the discourse on majoritarianism, I discuss how some groups were inadequately accommodated within the political system and how their aspirations were denied by the state.

<sup>16</sup> The refugee groups were repatriated because of suspension of violence between warring groups (LTTE and Sri Lankan Army; Shanti Bahini and Bangladesh Rifle), and conditions of peace and stability resulted in massive population movements from India to CHT and Sri Lanka.

<sup>17</sup> In the dissertation I have used the terms reconstruction and rehabilitation interchangeably.

located in Khagracharri district in Chittagong Hill Tracts, and Tamil returnees were residing in various welfare centres, open relief camps, or make shift camps in Vavuniya and Mannar<sup>18</sup> in Sri Lanka. These refugees lacked explicit viewpoints on the final outcome of conflicts in Sri Lanka and Bangladesh but preferred the continuation of peaceful conditions, such as the peace process or a ceasefire, which would facilitate the reconstruction process in their home<sup>19</sup> or homeland. I argue that the conditions of refugee generation still persist, albeit differently, in the “post-peace”<sup>20</sup> repatriation context.

### ***The Context of Refugee Generation***

The state-formation in South Asia shared several common trajectories of belonging. The Sri Lankan and East Pakistan<sup>21</sup> experiences of state-formation adopted models of cultural homogenization with centralized and strong unitary states. However, this approach contributed to persistent tensions between political structures and the aspirations of some minority groups that often resulted in separatist struggles fuelled by state repression and violence, which, in turn, created the conditions of refugee flow. For example, Sri Lanka developed a “demotic state”—instead of an “independent multi-ethnic polity”—that imposed a discriminatory constitution<sup>22</sup> that did not adequately

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<sup>18</sup> The Government Agent’s (GA) office in Mannar estimated the population of the district in March 2003 at 97,101. This figure includes 5276 displaced families (21,632 individuals) originally from other districts of the north and east. It excludes nearly 40,000 displaced persons living outside the region and an additional 30,000 refugees living in camps in South India.

<sup>19</sup> In the dissertation, I have followed the anthropological viewpoint of home and have applied it in relation to refugee viewpoint. Refugee groups desire home as an ideal place to belong, and they may be influenced during the process of repatriation.

<sup>20</sup> *Post-peace* can be defined as a situation after peace initiatives or the peace process is in place in the countries of origin.

<sup>21</sup> In 1971, the state of Bangladesh was created after East Pakistan seceded from West Pakistan.

<sup>22</sup> The 1948 Constitution of Sri Lanka provided adequate provisions to counterbalance any attempt of the dominant group (Sinhalese) to seize power. However, the protective mechanisms were gradually diluted in the subsequent Constitutions of 1972 and 1978, which consolidated the dominance of the majority group, as well concentrating executive power in the hands of the President.

address the question of minorities in the political system.<sup>23</sup> Subsequently, this constitution provided opportunities to “persecute minorities” when a given problem could have been resolved with effective devolution and power-sharing mechanisms between the provinces and the federal structure.<sup>24</sup> These constitutional shortcomings in protecting minority interests in Sri Lanka were manifested through policies of marginalization that led to later armed struggles by various Tamil groups vis-à-vis the state of Sri Lanka. It was this ongoing struggle between the Tamil rebel groups and the Sri Lankan army that led to the steady inflow of refugees to India.

The Bangladesh situation is more complex than the one in Sri Lanka, since the independent state of Bangladesh pledged to be secular and to uphold the basic rights of its various ethnic minorities. Bangladesh had two paths it could follow: first, the universal

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<sup>23</sup> In Sri Lanka, the unitary state attempted to create a unified Sinhala identity by imposing the Sinhala language as the national language and Buddhism as the national religion. Thus, overt majoritarianism became apparent when the government in Sri Lanka institutionalized the “Sinhala Only” policy, which predates constitutional change.

<sup>24</sup> The Ceylon Tamils enjoyed certain traditional rights under the communal method of representation provided for in pre-1931 colonial legislature. Moreover, universal adult suffrage granted under Britain in 1931 provided a partial self-governing system of constitutional reforms. However, under the Donoughmore Constitution of 1931, the communal means of representation was changed to territorial. This change did not affect the Ceylon Tamils because they were safeguarded by constitutional protection that prevented any discriminatory legislation, and also the governor had a reserve of powers, including the right of disallowance. Later, the Soulbury Constitution of 1947 completed the process of vesting complete autonomy to conservative leadership. The Reform Commission provided a compromise on the distribution of seats among the Sinhala majority and the ethnic minority; the Ceylon Tamils demanded a 50-50 representative split of seats between the Sinhala and the combined ethnic minorities. In 1957, the Bandaranaike-Chelvanayakam Pact (B-C) was an agreement between Sri Lankan Prime Minister S.W.R.D. Bandaranaike (SLFP) and the leader of the Tamil Federal Party (FP), S. Chelvanayakam, who made several important proposals on devolution and the Tamil language question. Provisions were put forward for the formation of directly-elected Regional Councils, which would have jurisdiction over such areas as colonization, agriculture, land, and education. Also, Tamils were promised that due recognition would be given to the Tamil language. Bandaranaike tried to offset the rigor of the “Sinhala Only” policy with concessions such as the Tamil Language (Special Provisions) Act, which was enacted in 1958. The B-C pact fell short of any demand for a federal constitution or regional autonomy, or to abrogate the “Sinhala Only” option. Moreover, the B-C pact was largely unimplemented. The Pact of March 1965 between Senanayake-Chelvanayakam essentially reproduced the earlier 1957 pact, with some modifications. This Pact promised to take action under the Tamil Language Special Provisions Act to make Tamil the language of administration and of record in the northern and eastern provinces. Another landmark was the provision on amending the Land Development Ordinance in order to allot land to the Ceylon Tamils. Also, provisions were made to make land in the north and eastern provinces available to landless persons in the district.

model of state-building based on forced assimilation, leading to the expulsion or exclusion of one or more minority groups; or second, the particularistic model of state-building that did not emphasize the majoritarian discourse. The first pathway led to the concentration and legitimation of power in the hand of Bangladeshi elites (Alavi 1989), which promoted a unique nature of state-formation based on a universal model with emphasis on the majoritarian discourse over minorities. The process of assimilation of the citizens of Bangladesh was based on the principle of Bengali identity, with little scope to retain the distinctiveness of minorities, especially the Jumma community. However, the ethnic minorities resisted the imposition of a “Bengali” identity through a sustained mass movement; their resistance gradually led to armed struggle (Rounaq 1972). Specifically, the state of Bangladesh adopted discriminatory policies of settlement to allow settlers from the plain areas of Bangladesh to enter the restricted and protected zone of Chittagong Hill Tract. (These arguments are developed further in Chapters 4 and 5.)

The reasons for the inflow of Tamil refugees from Sri Lanka to India were different from the reasons for the inflow of Chakmas refugees from CHT, Bangladesh to India. The Tamils were forced to seek refuge in Tamil Nadu due to the ongoing ethnic conflict in Sri Lanka and the heightened violence between the Tamil rebel groups and the Sri Lankan army. The Chakma refugees entered India because of the state-led armed brutality and the resulting massacres in the CHT region.

Thus, India was a common host for these two refugee groups. The Chakma/ Jumma and Tamils were housed in different campsites in Tripura and Tamil Nadu, respectively. The issue of the “belonging” of refugees in exile was determined by the asylum state, a

determination that shaped the trajectories of repatriation.<sup>25</sup> Refugee claims on belonging are based on the perception that refugees have equal rights during exile by virtue of the shared ethnicity and culture between refugee groups and the host-population. Moreover, the patterns of repatriation can be explained at multiple levels, leading to the formulation of the following research questions.

### ***Research Questions***

1. What factors determine whether or not refugees in South Asia will be repatriated to their countries of origin?
2. Why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states?

### ***Hypotheses***

The hypotheses are enumerated as follows: the hypotheses H1a and H1b relate to the first research question; and H2a and H2b address the second research question.

*H1a:* The more exclusionary the host-state’s understandings of “belonging,” the higher the probability of refugee repatriation to their home countries.

*H1b:* The higher the socio-economic and demographic imbalance in the host state, the greater the probability that the host-state will decide to repatriate refugees.

*H2a:* The continuation of exclusionary politics in the home-country is likely to adversely impact returnees’ re-integration.

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<sup>25</sup> I follow the international refugee regime definition of repatriation, which I discuss in the next chapter.

*H2b*: The greater the extent to which countries of origin renege on promises to facilitate repatriation, the less effective returnee-refugees' integration in "post-peace" and post-repatriation contexts will be.

### ***Case Selection***

My dissertation investigates the problem of repatriation in South Asia. The states in South Asia informally adhere to the norms of the international refugee regime, yet they are not signatories to the Refugee Convention related to the status and determination of refugees.<sup>26</sup> Within South Asia, I have chosen India for two reasons. First, India attracts the largest number of refugees from neighbouring countries. Second, a variation exists in the treatment of different refugee groups received by India.

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<sup>26</sup> See Hartling 1979, 129, Text of the Statute: Annex to the UN doc. A/Res/428 (V) (1950). The text of the 1951 Convention: 189 UNTS 137 entered into force on April 22, 1954. As of August 1, 1996, the convention has been ratified by 127 states. It should be noted that the two instruments are of a different legal status—a General Assembly (GA) resolution establishing the terms of the mandate of the United Nations High Commissioner for Refugees and a treaty—although some experts argue that the Statute is in substance a treaty on account of being an implementation of the UN Charter by the GA and therefore binding for all state members of the United Nations, Grahl-Madsen, 1966 at 32 (where the reference is made to the Statute as "an international convention adopted by delegated authority"). The adoption of the Statute by the General Assembly constitutes a decision of the Assembly on the basis of Art. 22 UN Charter, which is in virtue of its being a decision internal to the organisation; that is, concerned with the internal working of the organisation and hence binding to its member states.

Many refugee groups, such as the Tibetans,<sup>27</sup> Afghans,<sup>28</sup> Lhotshampas,<sup>29</sup> Tamils, and Chakma, were forced to seek asylum in India as a result of conflict. These cases range from official repatriation, as in the cases of the Tamils and Chakmas, to the non-repatriation of the Tibetans. I have selected the Tamils and Chakmas as two cases from the region, since these refugees had sought asylum in India during a period of intense conflict. Secondly, the Tamil and Jumma had sought refuge in parts of India in which they shared a similar language and culture with the local populace. Thirdly, both groups were in India for an extended period of time. Fourthly, both groups were repatriated as a result of the official policies of the asylum state—India. The repatriation of refugees from India was based on a complete or partial cessation of violence in the country of origin prior to the repatriation of the refugees. Lastly, successful repatriation in both cases depended on the integration<sup>30</sup> of refugees in their countries of origin. The contrast between the two groups is that the official repatriation of the Chakma/ Jumma has ceased, while the periodic repatriation of the Tamils continues.

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<sup>27</sup> The Tibetans entered India as a result of military persecution by the Communist China in the fifties. The Tibetan struggle for autonomy began in the mid-fifties and led to a large number of refugees fleeing to India. In the fifties, the Dalai Lama arrived in India with nearly a hundred thousand Tibetan refugees from Tibet. The Government of India was immediately able to accommodate them by offering “three hundred bamboo huts, food clothing and medical care.” In Misamari, there were nearly 15,000 Tibetans between May and June 1959; some of these refugees were allowed to settle in colder regions of India, like Sikkim (nearly 4000 settled there). Unlike other refugees in India, the Tibetan refugees were allowed to enrol in schools. Some of these refugee families have been living in India for a long time now, and they seem unlikely to return to their country of origin. The Tibetan refugees have been granted certificates of identity, which enables them to engage in gainful employment, economic activities, and even travel abroad and return to India.

<sup>28</sup> The Afghans have sought refuge in India since 1978 after the Soviets invaded Afghanistan. Thereafter the Afghan refugee inflow to India increased as a result of internal changes in Afghanistan, especially after the withdrawal of the Soviets (as a result of Geneva talks) and the Taliban’s capture of power soon thereafter.

<sup>29</sup> The Lhotshampas are originally the Bhutanese of Nepali origin. In 1990, the Lhotshampas constituted 39 percent of educated citizens in Bhutan. In 1985, Bhutanese Citizenship laws defined citizenship more rigidly, thus threatening to disfranchise the Lhotshampas community. An intense rivalry led to the exodus to Nepal and India. Around 90,000 are presently residing in camps in Nepal, and 30,000 in India.

<sup>30</sup> I make a distinction between integration in the post-repatriation context and the pre-repatriation context and define it as an important criterion to ascertain the success of repatriation. Integration occurs when a group that has been repatriated is successfully accommodated by the country of origin.



## *Methodology*

This research is based on qualitative methods, and the process of data collection involved field research in three locations: India, Sri Lanka, and Bangladesh. The study used both primary and secondary sources of data. Using an open-ended interview schedule, I interviewed officials<sup>31</sup> who were involved officially and unofficially in the conflict, and in the repatriation processes of the Chakmas and Tamils to Bangladesh and Sri Lanka, respectively. These interviewees were retired or present government officials, civil servants involved in repatriation decisions, international agencies involved in interim aid, and other non-governmental organisations. I interviewed both refugees and officials in charge of camps, administration, distribution of relief, and reconstruction. My other primary sources of data were interviews with 80 refugee families each (composed of families and children) in the countries of asylum and of origin. I was able to conduct in-depth interviews related to refugee life in the camps of the host state, as well as their situation in their country of origin. I also interviewed high-level officials from India, Sri Lanka, and Bangladesh who were involved in repatriation of the Chakma/ Jumma and Tamils.

For secondary sources of data, I carried out a content analysis of regional newspapers, government documents, records, government official reports, and journals to determine the trend in politics concerning refugee repatriation. Most of the regional newspapers had fairly detailed accounts of refugee lives and their impact on domestic politics in the host societies.

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<sup>31</sup> Most of these officials belong to the Prime Minister's Office in Sri Lanka, the Ministry of CHT in Bangladesh, local government in Khagracharri, local officials involved in management and later repatriation of refugees in Tamil Nadu and Tripura, as well as official involvement in camps such as the local administration in various camps in Tamil Nadu and Tripura.

### *Process of Data Collection*

The research was divided into two parts. First, I interviewed refugees in the country of asylum, India, where the Chakma and Tamil refugee groups were exiled in Tripura and Tamil Nadu, respectively. Second, I interviewed returnee-refugees to assess the reconstruction process of these two groups of refugees after their repatriation in their countries of origin, for example, in Vavuniya and Mannar in Sri Lanka, and in Dighinala in the district of Khagracharri in the Chittagong Hill Tract, Bangladesh.

The process of data-collection in Sri Lanka was quite difficult as the period of my fieldwork coincided with the beginning of a ceasefire. The beginning of peace talks between the Liberation of Tamil Tigers Eelam (LTTE) and the Government of Sri Lanka laid the foundation for the ceasefire agreements between the two parties; they were facilitated by Norwegian, and later Swedish, partners. The two research sites in Sri Lanka, Vavuniya and Mannar, are located in the northwestern part of the country. Historically, the northeastern part of Sri Lanka has been heavily shelled by the Sri Lankan army and has been part of the LTTE-dominated areas.<sup>32</sup> Thus, the fear always existed that the refugees would be reluctant to discuss their problems. When I reached Sri Lanka in May 2002 I approached the UNHCR Office in Colombo to facilitate my visits to Vavuniya. The research was conducted in Vavuniya and Mannar where I interviewed returnee-refugees living in refugee camps, relief centres, and resettled areas. I received an overwhelming response from the Sri Lankan community, both from refugee and non-refugee families, who all expressed a willingness to discuss their situation in Sri Lanka.

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<sup>32</sup> The northeastern part of Sri Lanka has often been termed as the “original habitation” of the Tamil people. The concept assumed political significance as a result of Thimphu principles in 1985 (I discuss this aspect in detail in chapter four).

Conducting interviews in Bangladesh was equally challenging because of the presence of army staff located close to the refugee camps in Dighinala, Khagracharri.

In the first phase of the fieldwork, I conducted interviews in three locations in Sri Lanka: the Poonthoddam Welfare Centre 2,<sup>33</sup> the Poonthoddam Welfare Centre 8,<sup>34</sup> and the Sithamparapuram Welfare Camp.<sup>35</sup> In the second phase, I was able to interview returnees living in Madhukarai, Mannar, and later in Pessalai Welfare Camp to understand the mechanisms of the reconstruction of Tamil refugees after relocation. The welfare centres were located within the cleared territories of Vavuniya north that were under the jurisdiction of the Sri Lankan government. In Pessalai camp located in Mannar, a total of 120 people lived in a make-shift camp that was constructed as an interim measure during the period of repatriation in 1989 and 1990, and later as well.

#### *Tamil Refugees in India, Sri Lanka*

The interviews were conducted at various sites. First, I conducted interviews in the refugee camps in Thiruvannamalai (India) and Tripura (India). The Tamil refugees, whom I interviewed in Tamil, were located in the districts of Thiruvannamalai and Vellore, in various camps in Gumudpundi, Poodupattur, Elathur, Thenpallipattu, Kondam, Adi-Annamalai, Poodupattur, Nimanelli, Thapathy, Thoppukollai,

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<sup>33</sup> Data collected from the camp-in-charge in Vavuniya in June 2002 showed that the Poonthoddam Unit 2 was comprised of 171 families, consisting of 710 members. The camp profile clearly indicated the exact location of the displacement of refugee families. The camp was populated by families from Jaffna (17 families; 82 members), Killinochchi (76 families; 325 members), Mullaitivu (68 families; 279 members), Vavuniya [uncleared territory] (9 families; 18 members), and Vavuniya [cleared territory] (1 family; 6 members). Since 1996, most people were allowed to enter the Vavuniya cleared area via Thandikulam.

<sup>34</sup> The Poonthoddam Welfare Centre 8 had a total of nine units that accommodated nearly 222 families of 847 members.

<sup>35</sup> The Sithamparapuram Welfare Camp 1 housed nearly 600 families.

Abdullapuram, and Tiruputtur. The non-governmental organisation OFEER<sup>36</sup> facilitated visits to these camps.

Initially, access to these camps proved quite challenging, especially in India, since government officials were reluctant to allow interviews of refugee families. However, after contacting higher authorities, and with the intervention of the office of the District Magistrate, I was able to conduct interviews in the district of Thiruvannamalai.<sup>37</sup> One of the concerns that refugee groups indicated during the interviews was the involvement of the UNHCR in facilitating voluntary repatriation. The refugee groups somehow felt that inadequate information was being provided to facilitate repatriation. In comparison to the refugees, the camp officials often were less inclined to talk. As a result, any information related to the procedures involved in repatriation was difficult to ascertain. Therefore, I conducted interviews of different categories: first, camp officials; second, refugee families whose names were chosen from the health register; and third, local officials involved in the relief and rehabilitation of refugees.

#### *Jumma Returnees in Khagracharri, Chittagong Hill Tracts*

The interviewees had been living in the Dighinala School since their repatriation in 1998. The families were part of the last phase of repatriation based on tripartite agreements between the governments of India and Bangladesh and the Jumma Refugee Welfare Association. The Chittagong Hill Tract is constituted of the three hilly areas of Khagracharri, Rangamati, and Banderban. The Khagracharri district has eight Upazila

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<sup>36</sup> Organisation for Eelam Refugees' Rehabilitation (OfERR), a non-governmental organisation (NGO) that works for the Sri Lankan Tamil refugees in Tamil Nadu, India.

<sup>37</sup> The various camps in Thiruvannamalai were the Abullapuram camp, Gumudpundi camp, Adi-Annamalai camp Kondam camp, Thepellipatta camp, Aryapadi camp, Vellapada camps I and II, and the Elathur camp located in the district of Thiruvannamalai, Tamil Nadu.

(sub-districts): Dighinala, Khagracharri, Laxmichari, Manikchari, Matiranga, Mohalchari, Panchari, and Ramgarh. Dighinala has many unions for local administration purposes, and interviews were conducted in various locations. Most of the refugees interviewed consented to lengthy in-depth interviews and were forthcoming with their views. Refugees were living in makeshift camps located in the Dighinala Upazila of Khagracharri. The three camps were located in the Dighinala Residential Primary School that housed 28 refugee families; interviews were conducted there in August 2002. The families living in the old rundown school in Dighinala spoke in the absence of their leader. The school was located in village of Boalkhali, under the Union Boalkhali, and Upazila/thane Dighinala, district Khagracharri, CHT. The second school in which interviews were conducted was the Milonpur Non-government Primary School established by the CHT Development Board, village Milonpur, and union Kobakhali, Upazila Dighinala. This school housed seven refugee families. The third school was the Uttar Kobakhali Primary School, village Milonpur union, Kobakhali, Upazila Dighinala, district Khagracharri. This school housed 32 refugee families.

### ***The Argument***

Many explanations have been put forward for the state action toward refugees and even more have been suggested regarding the question of repatriation. As per the international norm, a *refugee* is a person fleeing home as a result of “fear of persecution.”<sup>38</sup> India has been the common host to various groups of refugees in the

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<sup>38</sup> Chimni (2000) argues that the sole premise of claiming refugee status should not be based on objective criteria alone because *fear* is a subjective emotion, which must essentially be ascertained through *objective* means and methods. The Convention’s mandate protects those whose “civil and political rights” are violated and who were forced to flee their country of origin. However, this protection leaves refugees’ sociopolitical rights at risk. Also, the official status extends to persons who have been disenfranchised on

South Asia region. However, most of these groups have no *official* rights or recognition as stipulated by the international refugee regime.

Many factors influence the policies of the asylum state concerning the repatriation of refugees: the security threat posed by refugees, the ongoing protracted conflict in the neighbouring country with which the host state shares a close ethnic affinity, good bilateral relations with neighbours, and the cessation or continuance of violence and killings in the country of origin. In addition to ethnic affinity, other factors determining different refugee experiences are: the relationship between the countries of origin and asylum, the unofficial status of refugees in India, and the nature of relief packages provided to refugee groups in the place of exile (i.e., domestic politics often influence the kind of relief and rehabilitation that refugees receive in India).

The politics of the non-recognition of refugees in the asylum state is intertwined with an ethnic affinity that is shared between refugee communities and the host population. Refugees generated as a result of an ongoing conflict in neighbouring countries, state repression, or violence tend to seek asylum in neighbouring countries, which makes them vulnerable to early repatriation. Furthermore, the imbalance between the refugee group and the host population in regards to resource distribution is also a cause of tension between these groups.

The Chakma/ Jumma and Tamil refugee groups each shared close ethnic affinity with the host population in place of asylum in Tripura and Tamil Nadu, India. The northeastern state of Tripura, India is predominantly Bengali-speaking, whereas in the state of Tamil

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the basis of race, religion, nationality, membership of a particular social group, or political opinion. Thus, on the one hand, the definitional limitation continues to be a cause for concern for various scholars, but the Convention's importance still remains the same.

Nadu, the Tamil language is a binding factor for the refugees from Sri Lanka. The politicized ethnic affinity constitutes a positive aspect in determining refugee treatment and was an essential tool in contributing to the treatment of refugees and the later repatriation to their countries of origin. The ethnic affinity factor, along with the geographical proximity between the countries of origin and the country of asylum, contributes to a variation in the treatment of refugees. Ethnic identity is a contributory factor that influences the treatment of refugees: the politicized ethnic affinity between the host population and the refugee communities reinforced the ties between Tamils and helped to provide better aid packages in Tamil Nadu.<sup>39</sup> However, in 1991, the warm relationship between Tamils in Tamil Nadu and Tamils from Sri Lanka changed to one of suspicion and hostility<sup>40</sup> due to the assassination of former Prime Minister Rajiv Gandhi. Subsequently, the changed policies directed the government officials to *encourage* Tamil refugees to repatriate “voluntarily” to Sri Lanka. In contrast, the Jumma refugees entered India in the mid-1980s and were settled in camps in Tripura. The Chakma constituted one of the thirteen minority groups in the Chittagong Hill Tracts, Bangladesh. They were caught in a violent conflict between the Bangladesh security forces and the guerrilla wing of Parbattya Chattagram Jana Sanhati Samiti (PCJSS), the Shanti Bahini (SB). The Bangladesh Rifles was accused of committing a series of massacres and mass killings in the Chittagong Hill Tracts, which lead to the steady outflow of refugees to India. The

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<sup>39</sup> The case of the Sri Lankan Tamils in Southern India (Tamil Nadu) provides a typical example. In this case, the Tamils of Tamil Nadu were instrumental in exercising considerable pressure on Indian foreign policy on the question of ethnic conflict in Sri Lanka. The Tamil Nadu government found a common cause in politicized ethnicity, which reinforced the Tamil refugees’ identity. Also, the historically shared ethnicity between Tamil Nadu and Sri Lanka was partially responsible for resolving the issue of the citizenship of the Estate Tamils.

<sup>40</sup> This was asserted by various Tamil returnee-refugees in Vavuniya, Sri Lanka and Tamil refugees residing in camps in Tamil Nadu. Interviews were conducted in camps in Thiruvannamalai and Vavuniya in June-July 2002.

initial reaction of the Tripura government to the Jumma refugees was lukewarm compared to that of the Tamils in Tamil Nadu to the Sri Lankan Tamils' arrival. Even so, the Government of India later provided assistance to Chakma refugees. The demographic imbalance created as a result of the Chakma presence in Tripura was one of the causes for their repatriation, rather than the ethnic affinity that seemed to have been the case with the Tamils in Tamil Nadu.

Politicized ethnic affinity constitutes a threat when refugee communities are no longer bound by the demarcation imposed by their stay in a refugee camp. During the early-1980s, the Tamil refugees were viewed as less of a threat and were allowed to live outside camps. In stark contrast, the Chakma were residing in camps from the beginning of the mid-eighties. In the aftermath of the assassination of Rajiv Gandhi in 1991, the restrictions on Tamil refugees became more explicit. Also, the Chakma residing in camps were subjected to more restrictions.

As delineated in the hypothesis, the discourse on citizenship also forms a vital part of my explanation. The question of accommodating refugees within the paradigm of citizenship rights has puzzled many scholars. Citizenship is a contentious issue and has much more significance after an individual has crossed an international border. After entering an alien territory, refugees have no rights other than those to which they are entitled under international law, more specifically stipulated under international refugee law. The identities of refugees are enmeshed with nationality. Along with question of statehood, citizenship becomes a vital issue that both shapes and governs a state's recognition of a refugees' distinctive identity. Citizenship is a tool used to exclude those who seek to participate and who need recognition within the statist framework. Although



existing at the fringes of the state, refugees/ immigrants/ stateless people feel the need to be recognized.

Soguk (1999, 243) argues that the refugee discourse is instrumental in terms of questioning the age-old hierarchy established by the nation-state vis-à-vis non-citizens. While exploring the historical linkage between citizens and the state or nation, Soguk argues that refugees as non-citizens—based on their de-territorialized identity—seek to establish themselves within the state. In developing countries, these questions become more relevant, since refugees lack both *de jure* and *de facto* civil, political, and social rights.

Largely, following the literature on globalized citizenship, I contend that refugees can make claims to the basis of their *denationalized*<sup>41</sup> identity. Bosniak (2000), Sassen (1994, 1999), Soysal (1994), and Benhabib (2004) make claims that the “national state” tends to interpret rights based on nationality and that presently, there is a need to assert rights beyond nationality. I specifically address some of the inadequacies within the citizenship literature in order to capture the nuances of the problem of refugee and alien rights in countries of asylum. Then, I use this understanding to analyze the impact on refugees’ decisions to repatriate. Countries in South Asia have no official policies toward refugees, and the discourse of rights of non-citizens is determined on the basis of citizenship laws laid down in the constitutions of these countries. The choices that an asylum state makes regarding refugees are limited to providing protection and assistance as a temporary condition.

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<sup>41</sup> The globalized literature on citizenship views claims of non-citizen’s rights differently. Sassen tends to hold a different meaning on de-nationalization of rights, which emphasizes the evolution of “national-state” in addressing rights of non-citizens, whereas Soysal discusses the concept of *postnational* citizenship in relation to non-citizen rights in European Union. I address different aspects of these arguments in chapter 2 of the dissertation.

The problem of the repatriation of refugees from India is assessed from two vantage points: first, from the perspective of the asylum state; and second, from the perspective of the refugees. India is a common host-state to both Chakma/ Jumma and Tamil refugee groups. I link the notion of “belonging” to citizenship in order to formulate this claim. First, to the refugee, the problem of belonging in the South Asian region has much to do with the problem of the lack of recognition<sup>42</sup> or status. In India, the notion of belonging determines the trajectory of the repatriation process. The issue of belonging in the country of asylum is determined by membership within the territorial boundaries of states. The politics of belonging in most countries is based on membership criteria that determine the nature of the rights of each individual within a demarcated geographical territory. Most states demarcate membership based on principles of admission and belonging. India determines citizenship based on nationality. In other words, to be considered an Indian, a person has to be born to Indian parentage or be a blood relation. The rules of admission for citizenship are determined at birth, i.e., *ius soli* and domicile principle, that is, *ius domicile*. Membership and citizenship are legal statuses provided to individuals that reside within the territorial boundaries of the state. Refugees and aliens are marginalized categories outside the domain of citizenship in the asylum state. This marginality impacts upon state action regarding repatriation.

While I privilege the state-centric explanations of citizenship, I also analyze the notions of belonging adhered to by the refugees themselves. The refugees perceive a sense of “belonging” to the host-country and the host population as a result of shared

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<sup>42</sup> The state can provide recognition to refugee groups to prevent the infringement of their basic human and fundamental rights. However, such recognition is backed by legal status as per the rule of citizenship. I argue that refugees seek status (*not necessarily legal status*), but as stipulated in the International Refugee Regime.

ethnicity and culture. However, at the same time, the perception of the asylum state that refugees imply “temporary” status or “uprooteness” is a disadvantage to the interests of the refugees. Moreover, the assertion that refugees are “uprooted” and “alien” in regards to identity describes the precarious status of refugees in the asylum state. The sense of “uprooted or placelessness” (Ray 2004) is tied to the loss of identity, including cultural identity. The “loss of homeland is readily linked to a presumed loss of cultural identity” and can be “re-rooted” with ties to “home” or “homeland.”<sup>43</sup> As a result of the lack of favourable status in their country of asylum and of the innate need to belong, refugee communities look inward and seek reaffirmation of their “lost” identities. Scholars have different opinions on whether refugee identity should be tied to territory in their country of origin. Those who believe that belonging is tied to land (homeland) tend to perceive repatriation as a means of reasserting “belonging,” whereas others (very few) tend to believe that “uprooted” identities can be “re-rooted” in exile and that refugees should not seek reaffirmation of “old” identities through acts of repatriation; rather, they should assume new ties in their country of asylum through acts of emplacement. Few studies on refugees and transnationalism challenge “rooted-ness” and territoriality as the defining point in population movement (Gupta and Ferguson 1999; Kearney 1986, 1995; Appadurai 1991). However, recent research raises a critical voice against repatriation as an essential process of “uprooted”/ “de-territorialized” identities to regain lost identity in countries of origin.

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<sup>43</sup> The concept of homeland has been viewed differently by refugees and rebel groups involved in the separatist movement to attain autonomy. In this chapter, I assert that refugees view *homeland* as an extension of their idea on home. In chapter 6, where I discuss negotiations of inclusion, I distinguish between rebel groups’ view of homeland and that of refugee groups.

The asylum state has no explicit views on “home” but imposes restrictions on the mobility of refugees during the period in exile. The bias against refugees is even more apparent in the manner in which refugees are forced to live in camps located outside the boundary of the town or township location. Most refugees in India were provided temporary shelter in camps in which they developed a fixed identity based on culture and language.

In the absence of bonds to their country of asylum, refugees view “home” as a place to belong to. Stepputat (1994, 176) argues that such claims are based on “implicit assumptions of natural links between people, identity, and territory.” Such claims force refugees, and more so the displaced communities, to assume notions of “patria,” to assume that “an individual’s primary identity, rights, and obligations derive from membership to a ‘nation’ ...and nation encapsulates ‘home’ in terms of language, culture, rights to citizenship and land” (Ranger 1994, 289). Following Malkki’s (1992, 24; 1995)<sup>44</sup> analysis, I contest the sedentary biases associated with refugee identities during their period of exile as refugees in country of asylum can create a new kind of “nationness” without the basis of territoriality. Also, the displaced people or refugees can establish their identity and meaning while residing in exile and can begin the process of belonging, but they are unable to do so as a result of state policies of segregation in camps.<sup>45</sup> While residing in camps, the Sri Lankan Tamil refugees accepted their status as

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<sup>44</sup> In a study of Hutu refugees in Western Tanzania, Malkki discusses how displacement generated a new meaning to sovereignty and how “people are chronically mobile and routinely displaced, and invent homes and homelands in the absence of territorial, national bases—not in situ, but through memories of, and claims on places that they can or will no longer corporeally inhabit.” See Liisa Malkki, “National Geographic: The Rooting of Peoples and the Territorialization of National Identity among Scholars and Refugees” *Cultural Anthropology* 7 no. 1, (1992): 24.

<sup>45</sup> The camp represented the locus of hierarchical, asymmetrical power in which the overwhelming numerical majority of inhabitants—the refugees—were subjected to the authority of a small number of camp administrators, which only reinforced the refugees’ desire to return home. The camp provided

temporary and seemed open to the idea of self-repatriation and to the official repatriation process.<sup>46</sup> These Tamil refugees<sup>47</sup> belonged to different parts of northeastern Sri Lanka. They led a difficult and conflicted life in the camps but seemed to believe that repatriation would inevitably bring an end to their status as refugees in Tamil Nadu. They seemed interested and almost predisposed to the idea of return as one of the possible means of regaining their identities and rights as citizens. The location or camp site was a factor in influencing decisions to return to their place of origin, that is, “home.” The Chakma experience of “home” was different. The manner in which they were repatriated slightly differed, since they were allowed to visit their “home” prior to repatriation. However, they soon realized that the rehabilitation package did not address some of their primary concerns of representation and reconstruction.

Having summarized what motivates state action towards repatriation, I now turn to the issue of reintegration in a post-peace, post-repatriation context. Strangely, despite the motivational issues involved with repatriation, the problems associated with the integration of refugees in a “post-peace,” post-repatriation context appear similar to state (in)action towards refugee accommodation. I argue that the states of origin have not been able to (re)accommodate the returnees in both cases.

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opportunities to mobilize and rally around the notion of oneness based on the nation/state homeland; this also motivated returnees to reclaim their lost identity and nationality in Sri Lanka.

<sup>46</sup> This observation is based on data collected during field work in June 2002 in the following camps: the Abullapuram camp, Gumudpundi camp, Adi-Annamalai camp, Kondam camp, Thepellipatta camp, Aryapadi camp, Vellapada camps I and II, and the Elathur camp located in the district of Thiruvannamalai, Tamil Nadu. During various interviews, refugees living in these camps indicated that when conflict ends in their country of origin, they would like to return home. To these refugees, the period of exile in India was temporary, and “compromises were necessary to survive in a foreign country.”

<sup>47</sup> These interviewees (Satya, Aryamala, Viyajakumari, etc.) lived in different camps located in the district of Thiruvannamalai. During these interviews, they agreed that repatriation was the only solution available to them to improve their situation. Interviews were conducted during July 1-5, 2002.

The refugees were repatriated following a peace accord, as in case of Bangladesh, or a ceasefire, as in the case of Sri Lanka. Both states of origin agreed to grant enhanced status to the returnee groups. The state of Bangladesh granted a distinctive identity to the Jumma people along with a package of rights that included repossession of land. On the other hand, the Tamil refugees were repatriated without concrete proposals that addressed their concerns.

However, my data show that both the states reneged on their original promises in regards to refugee resettlement. The rights of both groups remain tenuous in their countries of origin. Yet, the findings also point to a marginal divergence between the cases. In spite of the continuation of “peaceful conditions” in Bangladesh, the status of the Jummas remains precarious and unrecognized due to the failure of the state to actualize the rights of the returnees. On the other hand, the ongoing conflict in Sri Lanka continues to place the Tamils in a bargaining position vis-à-vis the state. This situation has resulted in a marginally improved rehabilitation package. I also show that the failure to rehabilitate the returnees demonstrates the continuation of exclusionary state policies in both Sri Lanka and Bangladesh.

### ***Overview of the Chapters***

In the introductory chapter, I have outlined the refugee problem with a special focus on the issue of “belonging.” This chapter is a precursor to Chapter 2 in which I discuss the broad theoretical strands drawn from citizenship, as well as the problems of the non-recognition of refugees, with a special reference to the rights of refugees and aliens in India. I evaluate the impact of state-formation and the subsequent policies of citizenship

rights in both countries of origin, as well as the limitations of the existing literature on refugee repatriation.

Chapter 2 is a literature review that builds a framework to assess repatriation in South Asia. In this chapter, I argue that the lack of recognition of the asylum state goes a long way towards marginalizing non-citizens on the basis of the politics of belonging rooted in notions of membership in the nation-state. I also claim that the asylum state shapes refugees' views of "home" through the process of isolation and retains the exclusivity of purity of refugee groups by forcing them to reside in camps as opposed to allowing them to mingle with other citizens. In other words, forced encampment prevents refugees from forming other ties with the host populace. Thus, the state is able to exert pressure to control refugees' desire to maintain ties with "home." However, the asylum state has a role in determining when repatriation can begin, based on their relations with the refugees' country of origin.

In Chapter 3, I discuss the politics of exclusion, with special reference to refugee rights in South Asia. The discussion shifts from the macro level of analysis to the micro level when I discuss refugee rights and belonging in India. I assert that in Sri Lanka and Bangladesh, majoritarian policies marginalized certain categories of people, namely the Tamils and Jumma. In this context, I argue that postcolonial states in South Asia were responsible for shaping a particular kind of belonging that deliberately prevented refugee groups from acquiring formal status or recognition in their asylum state (India). In addition, I also argue that high/ low ethnic affinity and good/ bad bilateral relations between the countries of origin and of asylum created an impetus for repatriation.

In Chapters 4 and 5, I discuss the political situation of returnee-refugees in Sri Lanka and Bangladesh, respectively. I argue that returnee rehabilitation and possible re-integration depends on the particular kind of state strategies of accommodation used in the countries of origin. One component shared by two refugee groups was conflict, the cessation of violence prior to repatriation. Therefore, it was imperative to understand the issue of resettlement and accommodation patterns in each refugee group's country of origin.

In Chapter 6, I discuss the findings of the two cases in a comparative framework in order to understand the variation in outcome of the repatriation of the two groups. I attest to the variation of returnee perspectives on the strategies adopted by their countries of origin in regards to the accommodation of their demands as citizens. I assert that despite the similarities between the two cases, the evidence based on interviews in the post-repatriation context in Sri Lanka and Bangladesh indicates that the Chakma/ Jumma were marginally worse off than the Tamils.

In Chapter 7, the conclusion, I summarize the findings of the study in relation to my questions and hypotheses. I also enumerate the reasons why repatriation cannot be perceived as an end of the refugee cycle, especially in relation to the states of South Asia. The continuation of conflicts in Sri Lanka and subversive elements involved in Chittagong Hill Tracts, Bangladesh indicate that the question of integration of refugees is a crucial part of repatriation, and unless these larger questions are addressed, repatriation would be the beginning of another refugee-like existence in the countries of origin.



## CHAPTER 2

### *Debating “Belonging” and Construction of “Home” among Refugees: The Case of South Asia*

Refugees, like other transnational actors, such as aliens or migrants, challenge the prevalent norms of belonging based on citizenship established by the state. The membership rights of citizens are based on attributes such as birth, residence, and marriage that deliberately exclude non-citizens. The state-formation process shaped the nature of citizenship rights in postcolonial societies in South Asia. The state allocated “belonging” in aspects of rights to these members and excluded certain categories of people. I examine the theoretical construction of state-formation and state-building in Sri Lanka, Bangladesh, and India in relation to citizenship rights to understand how the non-inclusion<sup>48</sup> of refugees as “citizens” of either their countries of refuge or those of origin affects refugee decisions to repatriate “home.”

This dissertation draws from a diverse literature—refugees, migration, state-formation, and citizenship—to analyze the impact of refugee behaviour and the lack of their recognition in countries of origin and asylum upon repatriation. In a period of globalization, population movements across international borders due to political and economic conditions presuppose the rights of mobile groups. In respect to refugees, such a presupposition of rights has little meaning. In this context, I analyze the literature on citizenship rights to discuss what constitutes the basis of recognition and non-inclusion of Chakma and Tamils in exile and at “home.” I explore links between the rights of certain

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<sup>48</sup> In this chapter I make a distinction between formal recognition as discussed in the literature on citizenship and claims of status made by non-citizens, i.e., refugee groups. Drawing largely from the literature on citizenship, I assert that the refugee claim to status is legitimate despite the predominance of a rights-based approach in the citizenship literature.

groups of people in postcolonial societies (Tamils in Sri Lanka and Chakma in Bangladesh), state-formation and refugee-generation, and later the lack of formal recognition in the country of asylum and in the motivation to repatriate home. The theoretical premise of this dissertation is that the postcolonial state-formation in Sri Lanka and Bangladesh created conditions of refugee-generation, which continued in the post-peace post-repatriation context. The refugees' search for recognition generates the conditions for repatriation, as countries of origin and asylum contribute to the determination of repatriation patterns at particular places and times.

This chapter is a literature review of refugee studies and repatriation and of discussions on refugees' motivations to repatriate under difficult circumstances. I address three sets of interrelated questions. First, why do refugee studies emphasize repatriation yet overlook problems of integration in post-repatriation context? Second, what is the rationale of asylum states for denying status to refugees in exile? Third, under what conditions does "home" assume significance in the "refugee narrative"? In the following section, I address these questions by engaging with the literature on citizenship to outline first, the determinants of belonging by state in exile and "home" and how there are challenges from within; second, I discuss how concept of "home" is interwoven into repatriation. This discussion leads to the section on framework to understand the problems of belonging and repatriation in the context of refugees in South Asia.

### ***Determinants of Belonging in Exile and "Home" in Refugee Narratives***

The notion of "belonging" within a state is determined by membership. Citizens belonging to a territory are politically accepted and acknowledged and are legal members of the state. These citizens are admitted on the basis of rules of admissions determined

either from birth, domicile, or marriage. The conventional notion of belonging is typically dictated by these rules of membership. Citizenship constitutes the basis of the relationship between the individual and the state. The countries of asylum and origin determine the nature of rights of refugees and other individuals who live within a particular demarcated territory. The spheres of inclusion/ exclusion of rights are thus determined by the state. In search of recognition, refugees are faced with a dilemma regarding whether to continue to reside in exile or to repatriate “home,” which leaves them with choice.

But non-citizens, like citizens, can make claims to belonging: there exists a correlation between the identities of people residing within a territory and the sense of belonging they derive from it. People residing in a territorially demarcated area tend to derive their identity based on their sense of belonging to that territory. The sense of belonging in turn depends on a perceived sense of attachment to a certain land and a resulting identity. Soguk (1999, 293) asserts refugees or “moving people” tend to “transgress political or cultural borders” and seek to “reaffirm” the proposed boundaries of belonging. Refugees, as per the rule of statist claims on belonging, remain outside the ensemble of rights that prioritize rights to citizens over according similar rights to non-citizens. In a general sense, the capacity of individuals to move into or away from a state effectively challenges the capacity of the state to control the “status of the border.” In a practical sense, migration empowers those who move as they challenge the government’s ability to impose “difference” by patrolling the “dynamics of bodies” in the border areas since “moving bodies” represent a cluster of people in search of transcontinental rights.

But states determine the characteristics of belonging within a geographically demarcated territory and provide rights to those who are legally entitled to belong. The

state provides different rights to members as opposed to granting a “free-for-all” to inhabitants and outsiders. The state engages in strategies of accommodation to “incorporate” outsiders. Two such strategies are the assimilationist and the pluralist models of incorporation. The assimilationist model includes one-sided policies adopted by the state to reduce the social, linguistic, and cultural distinctiveness of immigrant communities, which allows members to assimilate or merge with the dominant community with the promise of citizenship. Membership in these situations enhances the dominant culture while eradicating the peculiarities of immigrant communities. The pluralist model accepts immigrant communities as “ethnic communities” with distinguishable characteristics, such as language or culture, and accepts them as citizens. Pluralism would imply that immigrants are given complete access to all spheres of society. Comparing the two, the pluralist model has a higher level of inclusion than the assimilationist model. However, both models have faced many problems in practice and have limited application in relation to determining refugee rights.

In the citizenship literature, scholars have debated the significance of membership and the ability to accommodate the changes that globalization has brought to the world. The membership issue within citizenship literature is predominantly based on the legal and formal acceptance of members within the state. States tend to determine membership based on nationality. The globalization literature asserts that despite the weakness in the literature to prefer nationality-based membership, it has made some strides in accommodating a few changes. The globalized literature tends to be optimistic on the reach of the state in determining nationalized-based rights, as the role of the state is decreasing. The traditional approaches to citizenship that are typified by rights-based

understandings such as Marshall (1949),<sup>49</sup> Black (1969),<sup>50</sup> and Shklar (1991)<sup>51</sup> have expanded to accommodate other notions such as “citizen-as-desirable-activity” and “citizen-as-identity,” or group identity and group participation in a multicultural society.<sup>52</sup> However, the traditional approach to citizenship is limited to a “formal-national-membership,” which tends to prioritize the rights of members over those of non-members. While the concept of citizenship rights has expanded from an approach that is based on the individual to one that may include group-based demands, the trajectory of the change nonetheless overlooks the need to include the category of non-citizens. It has failed to address or acknowledge the rights of the stateless and non-nationals, aliens, and refugees (Sassen 1999; Knop 2002). Bosniak (2000) concurs that previous theories of citizenship overlook the immigrant “alien” context of citizenship.<sup>53</sup> Bosniak (2000) and Sassen (1996, 1999, 2000) both discuss citizenship rights through the lens of a globalized world and assert that the present literature does not address citizenship rights beyond nationality, i.e., the concept of *denationalized*<sup>54</sup> or *postnational*<sup>55</sup> citizens.

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<sup>49</sup>T. H. Marshall, *Citizenship and Social Class* (Cambridge: University Press, 1949). Marshall discusses progressive rights in civil, economic, and political spheres in capitalist societies.

<sup>50</sup> As quoted by Bosniak (2000), Black (1969) “employs citizenship” as rights to have “full and equal membership.”

<sup>51</sup> Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge: Harvard University Press, 1991). Shklar refers to individual’s standing in society.

<sup>52</sup> Will Kymlicka and Wayne Norman, “Return of the Citizen: A Survey of Recent Work on Citizenship Theory,” *Ethics* 102, no. 2 (1994): 352-381.

<sup>53</sup> I am grateful to Linda Bosniak for proposing the problem of alienage. In this dissertation I argue that state-centric views on citizenship rights determined issues of belonging.

<sup>54</sup> Zolberg (2000); Klug (2000); Rubenstein and Alder (2000) in response to Bosniak’s *Citizenship Denationalized*, assert that there is a need to go beyond the notion of the state-dominated discourse on citizenship rights. The predominant position of state is challenged as a result of the movement of people across borders. Rubenstein and Alder (2000, 529) challenge the “singular notion of citizenship or a single legal status linking directly to the state” and are a little cautious towards complete denationalized citizenship; instead they discuss trends away from a state-centred notion, in order to consider the impact of citizenship on the legal status of nationality.

<sup>55</sup> Bosniak (2000) asserts that the globalized literature tends to view claims of “moving people” as postnational, or “transnational” rather than denationalized. She tends to view these claims as the denationalized rights of people. But Sassen differentiates between denationalized and post-national. According to Sassen, the foci of denationalized is “national-state,” whereas post-national is beyond

Multiculturalists in the citizenship literature argue that “citizen as identity” should take precedence over citizenship as a legal status of membership. Soysal (1999, 2000) argues that “decoupling in citizenship between rights and identity” is necessary to understand claims beyond nationality. Identity-based claims tend to be more particularistic in nature. Brubaker (1998, 132) argues that it is impossible to “decouple” the rights and the identity aspects of citizenship. For Brubaker, rights and identity are interconnected within citizenship while the politics of citizenship is about nationhood that fashions and shapes the distinctive kinds of political social membership. Another school of thought focuses on the decreasing role of the state due to globalization. Soysal (1994) and Sassen (1996, 2000) posit that the significance of the state is decreasing in the globalized world as rights acquire universal meaning; as a result, rights that were previously enjoyed by citizens are now also enjoyed by non-citizens, which demonstrates a shift in focus from a state-based conception of rights to one that is universal. But as rights assume universal meaning, identities of individuals can express specific traits as determined by the state. Hammer (1986, 1990) asserts that foreigners who reside in countries for long periods of time should be entitled to substantial rights.<sup>56</sup> Both Hammer and Brubaker contend that the rights of immigrants should be based on residence rather than nationality. The territorial location of citizens remain the main focus of citizenship rights, which are sometimes accommodated based on the duration of residence as opposed to other ways of gaining membership to a state such as “nationality” or marriage.

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“national-state.” But Sassen tends also to differentiate between denationalized as conceptualized by Bosniak and as one put forward by her.

<sup>56</sup> Tomas Hammer, “Citizenship: Membership of a Nation and of a State,” *International Migration* 24 (1986): 735-47. And Tomas Hammer, *International Migration, Citizenship and Democracy*. (Aldershot: Gower, 1990).

Thus, the multiculturalist citizenship literature permits two conclusions about how globalization has affected citizenship. First, the decreasing importance of the state, especially as a result of globalization, has created a “postnational” (Soysal 2000) citizenship that leads to the “de-coupling of political identities from national membership” (Sassen 1999). Second, with the emergence of de-territorialized citizenship, identity need not be tied to specific national residency, ethnicity, language, or other allegiance. The new disaggregated citizenship allows “individuals to develop and sustain multiple allegiances and networks across state boundaries, in inter- as well as transnational context” and cosmopolitanism based on multiple allegiances across borders can sustain different communities of language, culture, etc. (Benhabib 2004, 174).

In contrast with the multiculturalist citizenship literature, Bosniak (2000, 963-982) argues that the importance of the state is far from waning.<sup>57</sup> In this dissertation, I assert that state-centric views in South Asian states were responsible for creating boundaries of belonging. While accepting Bosniak’s argument, I contend that despite globalization, a rights-based understanding of citizenship in these states is well in place. Further, despite developments to incorporate facets of group or societal needs within it, the citizenship literature fails to address the key issue of the rights of refugees and aliens as non-citizens. Non-citizens are significantly disadvantaged by the current rights-based citizenship discourse as the citizenship literature has failed to accommodate the issue of alienage for immigrants and refugees. While the multiculturalists acknowledge the globalized views on universal citizenship, in reality, the conferral of such citizenship is limited to formal members of the state, which is implicit in the discussion of the quest for membership

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<sup>57</sup> Linda Bosniak, “Universal Citizenship and the Problem of Alienage,” *Northwestern University Law Review* 94, no. 3 (2000): 963-982.

among non-citizens. When viewed from the perspective of refugees or other non-citizens, or aliens, the theoretical notion of a universal concept of citizenship seems questionable. Asylum states generally hold a state-centric approach to rights, which discriminates against non-citizens and exacerbates the unequal relationship between citizens and non-citizens. The lack of status in the asylum state is linked to the politics of belonging for refugees. Issues of identities of refugees are understated in the asylum state, but rights are defined based on belonging. As such, in the refugee experience, refugees eventually undertake acts of repatriation due to their prolonged stay in a given asylum state that denies them rights equal to those of citizens, coupled with their need to belong and to re-acquire lost identity.

Following Arendt's notion of "the right to have rights," it is clear that among the refugee community or otherwise "stateless" people, the need to belong is more significant since they lack status and rights. The state is not losing its significance; rather, the state has shifted its approach, advancing a rights-based membership status rather than status determined by one's location of stay. Drawing from the globalization literature on citizenship, I make a case for granting rights to non-citizens, especially refugees. I argue that refugees' need for recognition or status (which need not be formal status) is quite acute. If state-based citizenship rights were to expand to accommodate other "cross-border" dimensions, then non-citizens would have rights similar to those of citizens. However, I do not claim that refugees seek "national-formal" citizenship; rather they seek a status-based position in the hierarchy of belonging that would protect their interests from arbitrariness of state officials in interpreting status in exile. The states in developing countries have failed to attribute any status to non-citizens, as they are not nationals.



However, the status of denizens would minimally protect the rights of non-citizens, rather than no status at all. If the state-centric rights discourse were to accept different principles of inclusion, then providing rights of non-citizens would be marginally addressed. Thus, I concur with the globalization perspective that state-dominated citizenship rights need to accommodate other claims to rights and accommodate varied interests and differences.

### ***Construction and Reconstruction of “Home” in Refugee Narratives***

The concept of “home” assumes a particular significance in refugee narratives. In this dissertation, I distinguish between the concepts of “home” and a “homeland”<sup>58</sup> to which refugees may return. Displaced people or refugees during a period in exile (especially in camps) often stay together based on ties to the homeland. Refugees associate memories and a bond with “home” and continue to strengthen such ties while living in exile. Such a spatial attachment occupies an important place in refugee narratives vis-à-vis home. For the displaced communities, place or land remains a crucial component of their identity; therefore, any “loss of spatial attachment makes their identity incomplete.”<sup>59</sup>

The links between “home” and a sense of “belonging” by refugee communities in an asylum state can be studied from two different perspectives. First, belonging is based on ties to home, which makes it possible for refugee communities to form distinct identities that aid in rallying refugee groups during their stay in exile: it has identity-forming capability. Second, belonging based on “homeland” allows refugee communities to form a collective in an asylum state, which works well from the perspective of the asylum

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<sup>58</sup> By homeland, I mean an extension of refugees’ idea of “home.” Returnee-refugees do not hold similar views of homeland as that of rebel groups; rather, they view homeland as a safe place to be, within the country of origin.

<sup>59</sup> See Stepan Wolff, “German Expellee Organizations between ‘Homeland’ and ‘at Home’: A Case Study of the Politics of Belonging,” *Refuge* 20, no. 1 (2001): 52-65.

state, as refugee communities are encouraged to remain tied to the politics of their homeland.

In the repatriation literature, scholars variously define “home” as an analytical concept. Olwig (1998), Berger in Rapport and Dawson (1998a) and Kibreab (1999) have provided different perspectives on home. First, home is a personal space of identification; second, it is the “nodal point of social relations” (Olwig 1998, 236); and third, “home” can be the physical place existing within specific material and economic conditions. The idea of “home” is a social-cultural construct that cannot be separated from its exact physical place. The possibility of constructing “home” is affected by physical conditions of existence, material possibilities, and economic situations in one’s country of origin. Refugees tend to come to terms with what, to them, constitutes “home” while in exile or within the framework of repatriation; however, as they do so, the idea of “home” influences refugees’ decisions to repatriate.

There is a debate in the literature over how a perceived sense of ties to “home” among displaced communities influences repatriation. The persistence among refugee communities to maintain feelings of attachment to their “homeland” prevent them from forming “new ties” while in exile. Coles (1985), Karadawi (1985, 1999), and Attiya (1988) argue that the basic need of human beings is to belong to a particular “home” and community. These scholars agree that “home” remains a factor in refugees’ decision to repatriate. However, Warner (1992, 1996), Malkki (1992, 1995), Hammond (1999), and Allen and Turton (1996) disagree with this premise; they claim that “the place attachment model” perceived “home” as a fixed place capable of exerting considerable influence on refugees’ decisions to repatriate (I elaborate on these arguments further in empirical

Chapters 4 and 5). I tend to agree with scholars who argue against the validity of the notion of “home” and its precise impact on refugee decision-making. Allen and Turton (1996, 10) contend that the “idea that return represents the most desirable solution to refugee movement contains an implicit assumption that a given population has its own proper place, territory or homeland.” Malkki (1995, 16) asserts that the fixing of people in native places of origin is a reflection of the sedentary bias in dominant modes of imagining homes and homelands, identities, and nationalities. Hammond (1999) and Allen and Turton (1996) agree that home is a strong and valid concept, but they question its influence on refugees’ decisions to return. To them, returnee-refugees can be involved in a process of emplacement: through stories and practices, they actively try to create relations to a place to belong, and they negotiate different concepts and notions of “home.” Kibreab (2003, 24-74) appears critical of the nexus between the imaginary concept of “home” as existing in the mind of refugees and the actual place of “home” and argues that it may not be the sole factor in refugees’ decisions to return.<sup>60</sup> Furthermore, the home that refugees have left behind may no longer exist, in physical form at least, because places, social relations, and culture can change in time, especially during conflict (Warner 1994; Stepputat 1999; Ranger 1994). As such, there is an over-emphasis on “home” as a factor that motivates repatriation.

While scholars have different perspectives on what constitutes “home” for refugees, they agree that the notion of “home” affects refugees’ decision-making about repatriation. I argue later in the dissertation that despite varied notions of “home,” these notions have

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<sup>60</sup> Gaim Kibreab, “Citizenship Rights and Repatriation of Refugees,” *The International Migration Review* 37 (spring 2003); 24-74.

an impact upon the refugees' decisions of repatriation to "home" and homeland.<sup>61</sup> The asylum state perceives refugee status as a temporary status and encourages repatriation to countries of origin.<sup>62</sup> Often, refugees repatriate with little or no information on the changes in the "home" country.<sup>63</sup> Refugees tend to come to terms with what, to them, constitutes home while in exile or within the framework of repatriation; however, when they do so, the idea of "home" influences refugees' decisions to repatriate. The concept of "home" as envisioned by refugee communities is based on their ideas of belonging. The ideal image of "home" evokes a strong bond to reclaim status lost in exile, which is accentuated by the absence of proper status in exile.

### ***"Repatriation" in Refugee Studies: The Refugee Perspective***

Most literature pertaining to refugees tends to focus either on their resettlement or on their integration. The earlier studies tend to indicate a particular trajectory in research on refugees. During the 1970s, the literature tended to study the initial phase of refugee experience: specifically, the causality and patterns of flight that created the conditions for refugees (Kunz 1973; Kolenic 1974; Rogge 1977). During the 1980s, the literature focused on refugee resettlement and integration in the countries of asylum (Hansen 1982; Harrell-Bond 1986; Rogge 1985; Desbarats 1985; Conner 1986; Kibreab 1987a). More

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<sup>61</sup> Based on data collected on Tamils and Chakma/ Jumma refugee-returnees in Vavuniya, Mannar in Sri Lanka, and Khagracharri in Bangladesh, I assert the refugees' decision to belong "home" is acute in the absence of status in asylum. But the idea of "home" to refugees is dissimilar to insurgent views on homeland, such as Tamil Eelam, or Jummaland; rather, it means the possibility to resume "day-to-day activities."

<sup>62</sup> As stated in an interview in Chennai (India) July 2002, a higher official dealing with refugees stated, "we don't understand the philosophy behind meanings of home etc., as long as refugees repatriate to country of origin we are alright with their decisions."

<sup>63</sup> The same official in Chennai stated in an interview in July 2002, "these people need to go back to their 'home.'" In this instance "home" was meant in the general sense of the term. Most of these officials were aware that the peace process in Sri Lanka was working well, which in the long run could facilitate the return of refugees as "the killing etc., has stopped" in Sri Lanka.

recent studies on refugees have focused on the repatriation of refugees (Rogge and Akol 1989; Preston 1993). The earlier approaches to refugees placed the responsibility on the host-state to solve refugee problems rather than on the states from which they had fled. Previous approaches to refugee studies were reactive, exile-oriented, and refugee-specific as opposed to the present discourse on refugees, which seems to be more proactive, homeland-oriented, and holistic.

Most traditional academic research on refugees relates either to the causes of refugee flow or to the development of mechanisms to prevent the outflow of refugees to neighbouring countries. In view of the inherent inadequacies in such traditional research, recent scholars have studied the political context of refugees (Dillon 1999; Xenos 1996, 235).<sup>64</sup> Other scholars such as Bascom (1994, 225-48) and Rogge (1994b, 14-49) have studied the socio-economic fallout of refugees. Scholars have also examined the perspectives of refugees' long-term interests and possible rehabilitation, which will be discussed in further detail in the next chapter.<sup>65</sup> Few scholars have examined the motivations for the repatriation of refugees and their alleged ties or links to their countries of origin and their ability to regain status through repatriation. Little academic research

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<sup>64</sup> See Nicholas Xenos, "Refugees: The Modern Condition," in *Challenging Boundaries: Global Flows, Territorial Identities*, ed. Michael J. Shapiro and Hayward R. Alker (Minneapolis: University of Minnesota Press, 1996), 235. Xenos discusses how refugees can be used as pawns in struggles between states, e.g., the Haitian boat people. He refers to them as "strategic human flows." The basis of these flows, Xenos maintains, "is the development of the state in terms of national identity and the social construction of a people within specific territory, the hyphenating of state within borders." Dillon, on the other hand, discusses "the scandal of the refugees," which is a reaction to being outside, of being "other" and part of "otherness." Dillon highlights the "otherness" of the refugees as being outside the fundamental "ontological determination of international politics and its exclusionary pressures." See Michael Dillon, "The Scandal of the Refugees: Some Reflection on the 'Inter' of International Relations and Continental Thought." (Private paper, copy with the author as mentioned in Daniel Warner, "Refugee State and State Protection," in *Refugee Rights and Realities*, ed., Frances Nicholson and Patrick Twomey (Cambridge: Cambridge University Press, 1999); Michael Dillon, "The Asylum Seeker and the Stranger: An Other Politics, Hospitality and Justice," Paper presented in International Studies Association Conference, Chicago, 1995.

<sup>65</sup> Harrell-Bond (1989) and Allen and Morsink (1994) have argued that some international agencies encourage repatriation. Coles (1985, 1987, 1989, 1992a, 1992b) challenges his reader to re-think the "exilic bias" of resolving refugee problems in contemporary refugee law.

focuses on the aspects of reconstruction and rehabilitation among returnee-refugees in their countries of origin.<sup>66</sup> Bascom (1994) analyzes the dynamics of the repatriation process of Eritrean refugees from Eastern Sudan and contends that the mass movements of human beings symbolize a changing world order. Rogge (1991) emphasizes the importance of the social transformation of refugees in exile as a contributory factor in their repatriation. The variation in decision-making within two or three generations of refugee groups is significant. The fundamental preconditions for “voluntary repatriation,” according to a minimalist interpretation, are the cessation of military conflict, regime change (where applicable), and the stability of the home-government.

To understand why refugees may be hesitant to repatriate, it is necessary to begin with an analysis of the country of asylum. The location-specific mobility is a generic term that denotes any or all of the factors that “tie” a person to a particular place (Da Vanzo 1981, 116). In addition to community ties, affinity factors may be factors for refugee repatriation that depreciate over time. Kunz (1991) has identified two basic categories of refugees that are inclined to return: the “event-related refugees” and “majority-identified refugees.” The “event-related refugees” are less likely to return home due to a lack of fundamental changes in their countries of origin if groups become well-integrated economically and socially in their countries of asylum. The “majority-identified refugees” are most likely to repatriate when the opportunity arises, which seemed evident in the context of Africa. A few recent studies on repatriation focus on these challenges faced in the countries of origin after repatriation (Larkin et al. 1992; Allen and Morsink 1994a; Allen 1996). These challenges are particularly problematic in contexts where refugee

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<sup>66</sup> With the exception of Laura Hammond and Barbara Harell-Bond.

movements have been spurred by civil conflict and over a longer period of exile. Also, most studies on refugees tend to be territorially-based (Coles 1989; Hathaway 1993; Aga Khan 1989), and until recently, the discourse on repatriation had overlooked integration problems involved in the post-repatriation context.

The literature also tends to overlook the nexus between the legal position of refugees in their countries of asylum and their choice to repatriate. Therefore, it is imperative to understand the conditions for the “voluntary” repatriation of refugees. It is possible that refugees could return home after considering their options, but their repatriation would depend on their personal aspirations and the available information on the wider structural changes that may have occurred in their countries of origin; however, most refugees do not have the experience of such a balanced decision-making process when they repatriate. Stein et al. (1995) suggest a classification of repatriation along the continuum of conflict resolution in countries of origin. The different classifications are: ricochet repatriation, with almost immediate return; relocation-stimulated, when host governments try to move refugees into camps; alienated-induced, when some refugees cannot identify with the emerging refugee community; secondary relocation-stimulated, when host governments try to move refugees to settlements a long way from the border; and the major repatriation, where the UNHCR promotes mass return. The literature does not address the lack of political status of refugees in the countries of asylum and the consequences upon refugees’ decisions to repatriate. The gap in the literature is manifested in several ways: first, the resolution of refugee crises seem to be more homeland-oriented, which means little to refugees; second, studies on repatriation have failed to address why refugees are inclined to repatriate; and third, the linkages between refugees as

“temporary” exiles encourage notions of repatriation. The dissertation will address these gaps and provide an alternative rationale for why refugees are inclined to repatriate.

***“Repatriation” in the International Refugee Regime: The Official Perspective***

Repatriation can occur based on the terms and conditions involved in return. The decision to repatriate often requires a sense that the return would be long-lasting or durable. The durability of repatriation is due to a “change in circumstance in the country of origin” that would make repatriation a feasible and preferable option for refugees. However, certain assumptions are involved in the notion of “change” that can be difficult to ascertain, which leads to an emphasis on the “voluntariness” of return.<sup>67</sup> Scholars of international refugee law emphasize the changes in the historical and political context of the Convention to stress the importance of the “voluntariness” of repatriation. The notion of voluntary repatriation operates within the boundaries of refugee law (based on interpretation of both the Statute and Convention): it relies on the ability of the country of origin to use it to its own advantage. In its *Handbook for Emergencies*, the UNHCR asserts, “[a] voluntary repatriation program presumes there are refugees who return to country of origin based on change in conditions in their country.”<sup>68</sup> Elsewhere, the UNHCR describes voluntary repatriation as “a practical technique for affecting the safe and dignified return of repatriation once the conditions that forced them to flee or to remain outside their country no longer exist.”<sup>69</sup> The UNHCR can legally determine when repatriation will occur, and it can also send refugees back based on the provisions stipulated in cessation clauses. The UNHCR’s *Protection Guidelines on Voluntary*

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<sup>67</sup> See UN Doc. A/Res/38/121 (1983)

<sup>68</sup> UNHCR 1983 at 231

<sup>69</sup> UN Doc. A/AC.96/815 (1993)



*Repatriation* states, “the idea behind promoting and subsequently encouraging voluntary repatriation is to give the refugee an opportunity to voluntarily return home with UNHCR protection and assistance before he or she formally ceases to be a refugee.”<sup>70</sup> The drive to resolve refugee problems is accomplished when refugees make a voluntary and conscious decision to return. The countries of asylum are obliged to help refugees repatriate in accordance with the accepted standards for voluntary repatriation. The concept of “safe return” has gradually replaced the concept of “temporary protection” that had legitimized instances of “involuntary return.” The idea of “safe return” in repatriation literature has a “lower threshold” than voluntary repatriation, so it is applied when countries of asylum seem inclined to apply the cessation clause and promote only safe return.<sup>71</sup> International norms require states to acquire voluntary consent from refugees prior to the repatriation process. The process begins with a visit by UNHCR officials to refugee camps; they request that the refugees complete questionnaires to verify their consent and the voluntary nature of their return. In some cases, refugees have affirmed their consent without being properly informed of the changes in their countries of origin or other such manipulation.<sup>72</sup>

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<sup>70</sup> According to the cessation clause, refugee status can be withdrawn when “situations have improved in the country of origin” and every other factor contributing to refugee’s status ceases to exist. An interesting notion as in most situations, the timing of the withdrawal of status is crucial as it is meant to act as a deterrent and refugees are encouraged to return with *slight* improvement in country of origin.

<sup>71</sup> The cessation clause can be divided into two broad sets: the first set comprises of four clauses that relate to a change in personal circumstances of the refugee, brought about by the refugee’s own act, and which results in the acquisition of national protection so that international protection is no longer necessary. The second set comprises of clauses that relate to the change in the objective circumstances in connection with which the refugee has been recognized, so that international protection is no longer justified (the ceased circumstances’ cessation clause).

<sup>72</sup> This was the case during the repatriation of Sri Lankan Tamil refugees in 1990-92 when the UNHCR was accused of working against the interest of refugees. Some local NGOs in Tamil Nadu (India) questioned the role of the UNHCR in ascertaining whether the refugees had voluntarily consented to go back. Most of the refugees were shown a video showing positive changes in Sri Lanka that encouraged refugees to consent; in reality, the returned refugees failed to notice any distinctive change in circumstances. As asserted by refugee groups residing in open relief camps in Pessalai, located north of Sri Lanka.

Chimni (2003, 200) examines the shift in the focus of international agencies from voluntary repatriation to the concept of safe return; in doing so, he challenges the normative basis of voluntary repatriation.<sup>73</sup> The author argues that voluntary repatriation has been replaced by “sustainable return,” an expression that describes the status of refugees upon their return to the homeland. “Sustainable return” includes the physical and material security of returnees as well as their integration with the given civil society and state. The *Convention Relating to Status of Refugees* does not explicitly include provisions related to the “voluntary” nature of repatriation. Chimni claims that it was the Statute of the UNHCR that had some provisions, a claim supported by Hathaway (1997): “it is wishful legal thinking to suggest that a ‘voluntariness’ requirement can be superimposed on the text of the Refugee Convention.”<sup>74</sup> Hathaway further opines, “once a receiving state determines that protection in the country of origin is viable, it is entitled to withdraw refugee status.”<sup>75</sup> However, countries of asylum have their own impetus to create conditions for “safe return.” Under these circumstances, refugees have no option but to follow the asylum state’s bidding and “go back.” The idea of return is based on subjective opinions of refugees living in countries of asylum. Goodwin-Gill (1997, 276) observed that such views “effectively substitute ‘objective’ (change of) circumstances for the refugee’s subjective assessment, thereby crossing the refugee/ non-refugee line.”<sup>76</sup> The assumption that repatriation occurs when all conditions are favourable is, in fact, how it is intended that asylum states should deal with refugees prior to the use of the cessation

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<sup>73</sup> B. S. Chimni, “Post-Conflict Peace Building and the Return of Refugees: Concepts, Practices and Institutions,” in *Refugees and Forced Displacement International Security Human Vulnerability and the State*, ed. Edward Newman and Joanne van Selms (New York: United Nations Press, 2003).

<sup>74</sup> James C. Hathaway, “The Meaning of Repatriation,” *International Journal of Refugee Law* 9, no. 4 (1997): 551-558.

<sup>75</sup> *Ibid.*, 553

<sup>76</sup> Guy Goodwin-Gill, *The Refugee in International Law*, 2<sup>nd</sup> Ed. (Oxford: Clarendon Press, 1997), 276.

clause. In other words, it is assumed that the cessation clause will only be used by asylum states when “the circumstances in connection with which he has been recognized as a refugee have ceased to exist” (Article 1C (5) of the 1951 Convention). Thus, the criteria that must be understood for repatriation are as follows: first, there should be a decision made by refugees that is explicitly expressed to the host state to return; second, there should be certain minimum changes in the country of origin; and third, the UNHCR facilitates the return (which might go against the very tenets of its mandate).

The UNHCR determines the “voluntariness” of repatriation. The UNHCR acts in an advisory capacity, providing information and assistance to refugees in order that they may make informed decisions, to facilitate, promote, or certify self-repatriation. The UNHCR defines modalities of assistance in guidelines<sup>77</sup> on voluntary repatriation, or what it calls “refugee-induced voluntary repatriation,” indicating that its facilitation of voluntary repatriation is defined as:

*Assisting refugees, in situations where UNHCR cannot [promote] voluntary repatriation to make an informed decision reflecting their own priorities and standards and, once they decide providing them with the necessary support and guidelines so that they can achieve the goals of their decisions (UNHCR, Handbook on Voluntary Repatriation: International Protection, Geneva, 1996).*

Initially, the UNHCR had been reluctant to facilitate the repatriation of refugee groups who explicitly desired to return. However, officials who were then involved were convinced that “the overall assessment of the situations in the country of origin” was such

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<sup>77</sup> Note that the following definition of “facilitating” voluntary repatriation is categorically different from that used in the past when it characterized the UNHCR’s role as regards voluntary repatriation at large (a time, moreover when the major repatriation took place after clear-cut changes in the country of origin and the required assistance was of technical and financial nature).

that repatriation “is *not* in the best interest of the refugees concerned.”<sup>78</sup> The initial mandate of the UNHCR changed in 1996, when repatriation was re-interpreted to respect “the refugees’ right to return to their country at any time, UNHCR may *facilitate voluntary repatriation*...when refugees indicate a strong desire to return voluntarily... [and] it is safe for most refugees to return.”<sup>79</sup>

The “promotion” of voluntary repatriation in the Handbook seems to represent an evolution of the UNHCR, with a move from an advocacy role, with “actions taken from the very outset of a refugee situation which could not foster a climate for return,”<sup>80</sup> to one that promotes repatriation. The earlier definition was much more elaborate: “Furthering or advancing the development and realization of voluntary repatriation as a durable solution to the *refugee problem* on the basis of the principles of international co-operation and State responsibility to create conditions conducive to the safe and dignified return of refugees.”<sup>81</sup> The concept of “promotion” now involves “planning and organizing the voluntary repatriation of refugees under conditions which are conducive to their safe return and durable reintegration.”<sup>82</sup> Since the mid-eighties, the UNHCR’s right to initiate

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<sup>78</sup> UNHCR Document “Protection Guidelines on Voluntary Repatriation” (1993). (emphasis original) Note: facilitated repatriation can take place on the basis of either bilateral or tripartite agreements. Thus there is a slight difference between facilitating and promoting repatriation. The difference is more in the nature of assistance and whether the UNHCR has been instrumental in providing that exact nature of assistance. A case in point may be the Guatemalan refugees in Mexico.

<sup>79</sup> UNHCR Handbook. *Voluntary Repatriation: International Protection* (1996). (emphasis original). The UNHCR seems to confine its role in situations in which it considers repatriation premature to providing guidance and making its position known.

<sup>80</sup> UNHCR Handbook. *Voluntary Repatriation: International Protection* (1996). (emphasis original).

<sup>81</sup> UNHCR Document. *Protection Guidelines on Voluntary Repatriation* (1993). (emphasis original). Although there is no clear reference as to why the state has been given the responsibility and what the nature of the state is, it might be used in the context of liability and accountability for wrongful acts and their consequences, and it may be construed as such.

<sup>82</sup> UNHCR Handbook. *Voluntary Repatriation: International Protection*. (1996). Similarly: UNHCR Doc. 1993 (where these activities are discussed separately under the heading of “encouraging” voluntary repatriation: a heading that serves to underline that encouragement of the solutions only takes place after its promotions have yielded the desired conditions “conducive to return.” The Handbook retains a similar emphasis by distinguishing between the promotions of solutions on the one hand and the promotion of

the organisation of repatriation was accepted and endorsed by the Executive Committee (and the General Assembly).<sup>83</sup>

The 1951 *Convention Relating to the Status of Refugees*<sup>84</sup> and the 1967 *Protocol*<sup>85</sup> do not explicitly refer to the repatriation of refugees. Article 1(C) (4) of the 1951 Convention stipulates that refugee status ceases if refugees voluntarily re-establish themselves in their country of origin. Furthermore, the successful completion of a voluntary repatriation programme would indicate that the circumstances that caused the refugees to flee no longer exist. Voluntary repatriation can occur only when certain conditions have been met by countries of origin, which in turn facilitates the safe and dignified return of refugees. However, repatriation becomes a tool to suspend the status of refugees in asylum states, where a cessation clause may be applicable; it may also represent another way to prevent non-refoulement under Article 33, whereby the refugee status only ceases when there is either voluntary re-establishment (not just return), or when a change of circumstances has been shown to exist in the country of origin. In this process, states may find an ally in an unusual place, the UNHCR. The UNHCR has agency-based standards of repatriation that often conflict with the true meaning of cessation clauses. The UNHCR has adopted “a

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voluntary repatriation on the other).

<sup>83</sup> In addition, the perception of the UNHCR speaking “on behalf of the international community as a whole, representing a universal, non-political, humanitarian concern for refugees” could be adduced (Statement of the High Commissioner to the Third Committee of the General Assembly (1992; text printed in; 4 IJRL 1992 at 541). Recognition of this perception was formulated as a prerequisite for the UNHCR’s effectively extending international protection to refugees. An alternative characterization of the UNHCR: “the High Commissioner is the embodiment of international refugee humanitarianism and the father of the world’s refugee” (Kelley 1990, 282).

<sup>84</sup> “As a result of events occurring before January 1, 1951, and owing to *well-founded fear* of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, outside the country of his nationality and is unable or, owing to such fear, is willing to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (emphasis added).

<sup>85</sup> The 1967 Protocol relating to the Status of Refugees removed the “temporal and geographical limitations” contained in the 1951 Convention. The Protocol was intended to broaden the basis of “refugee-hood” criteria.

spectrum of institutional positions on repatriation which explicitly includes the facilitation of return ‘even where UNHCR does not consider that objectively it is safe for refugees to return’” (Hathaway 2005). Zieck disagrees with Hathaway’s argument of institutional overreaching by the UNHCR but concedes that it might be possible. Zieck holds the Convention responsible for a lack of proper guidance in the modalities involved in voluntary repatriation. The 1951 Convention did not make any reference to voluntary repatriation, not in terms of solutions “for it can be argued that the fourth cessation clause is predicated on voluntary repatriation” (Zieck 2005, 217-48). Article 35 of the 1951 Convention provides a specific obligation on the part of states that accords certain *carte blanche* for the UNHCR. This article stipulates clearly that states need to provide ultimate cooperation to facilitate the functions of the UNHCR. Article 2 of the 1967 Protocol also requires states to work toward complete cooperation with the UNHCR in matters related to refugee determination. In essence, Zieck disagrees with the concept of institutional overreaching but holds the Convention responsible for any misuse by the UNHCR.

The OAU 1969 *Convention Governing the Specific Aspects of Refugee Problems in Africa* is one of the binding documents between signatory countries and the international agency, the UNHCR, that explicitly treats some of the issues related to “voluntary repatriation.” It recognizes the voluntary character of repatriation and specifies the responsibilities of both the country of asylum and the country of origin.<sup>86</sup> The Cartagena Declaration also includes provisions that relate to repatriation. The principle includes a range of issues such as the provisions of adequate information to refugees, freedom of movement, non-discrimination, access to means of subsistence and land, as well as access

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<sup>86</sup> See Article V of the 1969 OAU Convention Governing the Specific Problems of Refugees in Africa; see also CM/ Res. 399 (XXIV) Resolution on Voluntary Repatriation of African Refugees of the OAU Council of Ministers, Addis-Ababa, 1975.

of the UNHCR to the returnees. None of the documents directly address the regional component of repatriation other than a few treaty provisions in the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa,<sup>87</sup> which refers to “new circumstances prevailing in [the] country of origin” that enable refugees “to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished.”<sup>88</sup> But some of these changes in countries of origin are less discernible.

Having discussed the lacunae in refugee studies and the official perspective that favours repatriation as a solution, I will now construct a framework to investigate why refugees in South Asia view repatriation as a solution and how successful their integration process has been in the post-peace, post-repatriation context. I engage the tools discussed above, such as rights as determined by states, to understand refugee decisions to repatriate.

### ***What Explains Belonging of Refugees: A Case of South Asia***

I raise two questions in the dissertation: first, which factors determine whether or not refugees in South Asia will be repatriated to their countries of origin? Second, why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states? I assess the two questions mostly from a state-centric perspective (both in the country of asylum and in the country of origin) whilst incorporating the standpoint of the refugees.

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<sup>87</sup> See M. Zieck, *UNHCR and Voluntary Repatriation of Refugees: A Legal Analysis* (The Hague: Martinus Nijhoff, 1999).

<sup>88</sup> Art. V (4)

*Factors Determining Refugee Repatriation in South Asia*

	Exile	Home country	Outcome(s) in post-repatriation
Refugees	claimants to status; physical protection, financial assistance	formal status; reinstatement of rights, especially on land; homestead	variation in Chakma returnee outcome; lack of state initiatives in implementation of CFA or PA; politics of exclusion
Country of refuge	ethnic affinity; adverse socio-demographic relation; security threat	inter-state relations; security concerns	no interference policies; return of twice- repatriated refugees or “recyclers”
Country of origin	examine minority groups claims of marginalization; implement policies, peace initiatives, or accord	continuation of violence; devolution package; rehabilitation strategies to re-integrate returnees	strategies of accommodations; integration patterns of returnees

As shown in the chart, I will discuss a few factors involved in the repatriation of refugees in South Asia. In the chart, columns one and two incorporate aspects of the first research question; column three is more pertinent to the second research question. There are a number of factors that influence the asylum state's decision to repatriate refugees. These include demographic imbalances due to an influx of refugees, the potential for political instability, and political relations between countries. However, I privilege



explanations based on state-centred constructions of citizenship in conjunction with these factors.

The ethnic affinity between the refugee group and host population has an important role in determining the asylum state's management of refugees, as more refugee groups seek asylum in a society that shares a similar language, culture, and kinship structures. But shared ethnicity is also instrumental in determining whether refugee groups will be repatriated. Some have argued that the Tamil refugees received preferential treatment as compared to the Chakma refugees in Tripura (I elaborate these issues further in the next chapter on the politics of exclusion). But the variation in refugee treatment and management cannot be solely attributed to the ethnic affinity factor. Good inter-state relations between the countries of origin and of asylum can lead to the improved treatment of refugees as the asylum state may choose to "repatriate" to signal good relations between the countries of origin and of asylum. In either event, the lack of *defined* status or recognition creates instability and insecurity among refugee groups, which further enables asylum states to treat them as bargaining chips in bilateral relations.

My dissertation problematizes refugee repatriation in the absence of political and formal recognition of refugees in the country of asylum and posits that as the primary cause of repatriation. I draw upon the state-formation literature to establish linkages between rights attributed to citizens and denial of rights to non-citizens as one of the effects of state-formation processes in postcolonial societies in India, Sri Lanka, and Bangladesh. I argue the state-formation processes in South Asian countries have shaped state policies of accommodation as well as the marginalization of certain minority groups. In Sri Lanka, the unitary-state was responsible in adopting policies that discriminated

against the minority communities. These policies essentially failed to accept members of certain communities as full members, especially the indigenous communities in Bangladesh. The relatively new states defined the boundaries of belonging based on citizenship rights and entitlements. Over a period of time, the sense of alienation and deprivation has led to conflicts, creating conditions of refugee flow into India. In India too, the state-centric view dominated the citizenship rights, which was based on nationality. Nationality-based citizenship rights tend to draw legitimacy from the territorial boundaries of state, which by default excludes non-nationals.

While postcolonial societies have similar experiences, they have dissimilar outcomes. This dissertation does not claim that all postcolonial societies share or have similar outcomes; however, it is certainly true that South Asian countries share a similar history, heritage, and past. The trajectories of state-formation in these countries reflected the distinctive legacies of postcolonial societies. The state represented a set of institutions, with extreme coercive power of domination and force, accompanied by a monopoly on the use of force (Evans et al. 1985; Mann 1986; Midgal 1988; Skocpol 1979; Smith 1983; Tilly 1975), with an aim to protect territorial integrity (Weber). Tilly (1985) defines states as “coercion wielding organisations distinct from households and kinship groups and exercise clear priority in some respects over all other organisations within substantial territories.” However, some would argue that state-formation could evolve over a period of time and be transformed to accommodate different interests since policies may accommodate differences in alternate spheres. The state thus represents an institutionally complex body that provides a basis for the personal safety, rights, and entitlements of its citizens.

Most developing societies have adopted a model of state-formation with a strong central state that may reduce external and internal threats. State-formation was the means by which political entities acquired attributes of statehood, such as legitimacy (Holloway and Stedman 2002, 161-189), which impacted the process of state-building in decolonized societies. The assumption was that a strong state would ensure stability and survive conflicting tendencies that arise from the diverse needs of society. A strong state provides a strong institutional mechanism to diffuse or accommodate any divisive tendencies within predominantly pluralist societies. State-formation involved the desire to have a strong state with an immense capacity and power both to accommodate and to balance the needs of every individual in society.

The postcolonial states in South Asia adopted a stringent centralized form of state. The centralized states in Bangladesh and Sri Lanka enforced policies of homogeneity over their diverse populace, which contributed to acute marginalization of minorities such as imposition of “Islamization” in Bangladesh and “Sinhala Only” in Sri Lanka; this marginalization paved the way to a discourse of majoritarianism. In Bangladesh, these policies prevented the minority or indigenous people (Jumma) from being accepted and acknowledged within the structure of their formal constitutions. The new Bangladesh state defined boundaries of belonging based on citizenship rights and entitlements, which led to a direct confrontation between the Bangladeshi and Bengali identities. In Sri Lanka, the educated Tamil minority were forced to accept the Sinhalese dominance over language and religious practices. In both instances, the state processes were responsible for reversing the histories of these two countries. Recently, scholars have argued that interests in the study of state are a reflection of “relationship of domination, politics and

forms of state building” (Steinmetz 1999; Hansen and Stepputat 2001; Das and Poole 2004). State-formation involves an understanding of power, the authority to build states and to attribute meaning to categories through a process of construction and deconstruction. Krohn-Hansen and Nustad (2005) emphasize how the study of state-formation has permitted a deeper understanding of cultural processes, institutional structure, and regimes of power. Corrigan and Sayer (1985) identify the state as “cultural forms” and state-formation as “cultural revolution,” arguing that new identities are formed through constant categorization and re-creation of “everyday state routines and rituals,” which in turn produce “individual and collective identities.” The state can exert itself as a physical entity that imposes varied policies of either marginalization or, in some instances, accommodation, depending on the nature of state-formation. The two-pronged process further demarcates boundaries between communities based on the shaping of rights and entitlement policies between the majority and the minority. The peculiarities in the study of state-formation underscore the effect on minority communities, especially in relation to their strategies of accommodation. In reality, however, state-building imposed rigorous homogenization projects, especially in Sri Lanka and Bangladesh, where attempts were made either to forcibly assimilate or to integrate people into the dominant group. (I elaborate these arguments in the next chapter, *The Politics of Exclusion in India, Sri Lanka, and Bangladesh*.)

Previously in this chapter I discussed the literature on citizenship and state-formation to assess why non-nationals remain outside the purview of a rights-based understanding of citizenship rights. Also, despite strides made in the globalized world, states have failed to acknowledge rights of non-nationals. I apply this understanding in the South Asia case

to understand rights of non-inclusion of certain categories of people and determine how postcolonial state-formation shapes the rights of citizens. In this dissertation, I contend that the refugees' desire to seek a "home" in their homeland is a consequence of their lack of former status when they are in exile and the discrimination faced during that exile period. This is particularly relevant to two refugee groups: the Chakma and Tamils in India. In India, the normative basis of membership was determined either through descent or residence; in reality it prefers nationality-based citizenship.

The postcolonial states in South Asia (India, Bangladesh, and Sri Lanka) favoured a state-centric view on citizenship with little scope beyond the territorial boundaries of the state in terms of rights, status, and recognition. These postcolonial states failed to adequately accord status to certain categories of people during the process of state-building and nation-building, which led to the marginalization and alienation of ethnic minorities in countries like Bangladesh and Sri Lanka. Furthermore, the postcolonial policies of Bangladesh and Sri Lanka created conditions of refugee flow into India. Indeed, while seeking refuge in India as a country of asylum, few refugees were entitled to political status. From the perspective of the asylum state, the refugees were given low priority over citizens; hence the less significant need to determine their status. The citizenship rules in India thus demarcated the boundaries of belonging to exclude refugees and other aliens.

Since the state provides legitimacy to members based on legal standing, it denies the same to non-members. Moreover, territoriality is the basis for rights and entitlements of members of a state. The notion of such membership or citizenship is based on the presumption of political belonging and positions derived from the placement within the

state. In this manner, citizenship is a political tool to carve out principles of inclusion and exclusion based on formally established normative ties between the state and its subjects that may be characterized as contractual or legal. Herbst (2000) discusses the relationship between citizenship laws and their “explicit tie to...unique territoriality defined politics.”<sup>89</sup> Citizenship can be seen as a contractual relation between the state and its inhabitant that also determines a particular trajectory of belonging. I question the legitimacy of citizenship rights that are accorded on the basis of nationality determined at birth or marriage within a territorially demarcated state. The legality of refugees’ belonging is based on their legal position within the asylum country. I argue that if refugees were to be accepted within a framework of partial recognition, the Indian state would find it difficult to repatriate, as exemplified by the Tibetans in India and some Afghan refugees in India. The political status of refugee communities in their countries of asylum has great significance for the determination of the future of such refugee communities. A very important connection should be drawn between “belonging” based on membership or citizenship and the role of the asylum state with respect to refugees.

This dissertation discusses a lack of framework drawn from the citizenship literature to address the issue of “alienage” or formal recognition to non-citizens. There are many other reasons why an asylum state chooses to deny status to non-citizens. The rationale varies depending on the geographic location in which the refugees are staying. States with contiguous borders have little choice but to keep an “open door” policy regarding refugees. Sharing ethnicity and a similar language with asylum states can provide an incentive in the refugees’ choice of a place of refuge. Refugees are naturally inclined to

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<sup>89</sup> Jeffery Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton, NJ: Princeton University Press, 2000).

seek refuge in areas where they share a similar ethnicity with the host population; this can be a cause of concern to the asylum state and affect domestic politics. However, a prolonged period of stay of a large number of refugee groups with similar cultures and languages can also be a deterrent for the asylum state. Ethnic affinity is thus a double-edged sword, since it influences asylum seekers to go to countries of asylum that offer a shared language, culture, and kinship, but the asylum state may also be threatened by the presence of a large number of refugees and the consequence for domestic policies.

Another cause for concern can be the increasing burden on resources due to the presence of a large number of refugees that expedite the process of repatriation. Asylum states can provide minimum assistance and protection to refugees, but they appear reluctant to institutionalize the role in terms of formal charters of rights. The janus-face of the asylum state acts as a protector if need be, but it does not grant formal rights, which tilts the balance of power in favour of state bureaucrats, who have significant influence on the determination of the future of refugees. The overarching principle applied in the developing states is to refuse rights to refugees. Therefore, from the vantage point of the country of asylum, repatriation represents the “end of refugee cycle.” I argue that while the refugees’ lack of formal status should have limited application in determining the probability of repatriation, it nonetheless constitutes one of the predominant factors in the refugee narrative. The seemingly “temporary” status of refugees warrants their lesser status in countries of asylum, which influences their decisions to repatriate.

Another reason refugees agree to repatriate is due to ties to “home” or homeland. Homeland is one of the factors that influenced refugee repatriation to their countries of origin. These refugees’ notions of home are also shaped by the asylum state’s policies. In

this case, the Indian state isolates refugees in campsites to prevent them from intermingling with the local populace. This segregated spatial arrangement reinforces refugees' imaginations of "home." Refugees residing in camp are a de-territorialized people<sup>90</sup> with deep associations with the physical location of campsite, which is an extension of the territory in the home country. These refugees seek to re-territorialize in exile in camp. Camp-refugees consider the campsite as sites of mobilization and opportunities to create a new identity based on location-of-stay (i.e., camped in enclosed areas with a bamboo structure and daily rations). The mobility and identity of refugees is drawn from "camp sites," where the ultimate power lies with the state officials. Refugees residing in camps are engaged in an emotional construction and reconstruction of history as "a people," which forms a part of the collective, influencing the return process. Refugees view themselves as a nation in exile often empowered to reclaim or create a new homeland upon return. The camp refugees constitute a different category of people residing in isolation and have the ability to retain the purity of their ethnicity protected through isolation in camps.

In the remaining part of this chapter, I discuss the aftermath of the repatriation process to delineate the commonalities and differences in the patterns of re-integration between the Chakma and the Tamils in keeping with my second research question. The success of repatriation and possible reconstruction is contingent on "successful" accommodation of returnee populations in countries of origin. The conflict-induced returnees need to resolve conflicts amicably in order to aid the process of resettlement of displaced people.

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<sup>90</sup> I follow Liisa Malkki's understanding on difference between camp refugees non-camp refugees. See Malkki, "Refugees and Exile: From 'Refugee Studies' to the National Order of Things," *Annual Review of Anthropology* 24 (1995).



I assert that the continuation of policies of exclusion in countries of origin such as Bangladesh and Sri Lanka determined a certain trajectory of accommodation patterns, which in turn influenced the integration of the Chakma and the Tamils. The differences between the integration of the two refugee groups were based on policies adopted by the state vis-à-vis refugee groups. The state policies were influenced by certain prevailing conditions that had facilitated the repatriation process. The two refugee groups studied in the dissertation were repatriation as a result of cessation of violence that was brought about through ceasefire agreements or the signing of the Peace Accord. I make a case for the Chakma returnees in Bangladesh and contend that while the Chakma had a larger role in determining the terms and conditions of the Accord (involvement in the Accord, visits to CHT prior to repatriation in 1997), the state of Bangladesh had provided firm assurance that the terms and conditions of the Accord would be adhered to and that Chakma would be reinstated in the CHT region. However, both states in Bangladesh and Sri Lanka had practiced policies of exclusion, which, however, were manifested differently on the two refugees groups examined in the dissertation. The temporal difference between the two groups can be determined based on how the state chose to apply some of the terms and conditions implemented in the ceasefire agreement and the Peace Accord. The ability of the state either to abide or to renege depends on certain factors, such as whether the rebel group (Tamil Rebels<sup>91</sup> of the PCJSS<sup>92</sup>) had the strength

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<sup>91</sup> Though there were various Tamil groups involved with the government in Sri Lanka, the Liberation of Tamil Tigers Eelam emerged as one of many “*effective*” mouth pieces of the Tamil cause.

<sup>92</sup> Parbattya Chattagram Jana Samhati Samiti (PCJSS) is a political organisation of the eleven multilingual indigenous Jumma people of Chittagong Hill Tracts (CHT), in the southeastern part of Bangladesh. The organisation, which was founded on February 15, 1972, espoused principles of nationalism, democracy, secularism, equality, and social justice for the people of CHT.

to hold the state accountable in providing for them on the basis of the Accord or resort to violence.

The Chakma group had a proactive role in determining their future in CHT. A few cardinal conditions in the Peace Accord addressed the moot issue of the Bangladesh state's majoritarian policies on Jumma people, such as the creation of the Ministry of CHT Affairs, i.e., the default recognition to the category of Jumma in the polity of Bangladesh. The Bangladesh state soon adopted policies of exclusion once again after addressing a few peripheral terms and conditions of the Accord, such as constituting the Ministry for the CHT region, and constituting the Land Commission (I elaborate on these arguments later in Chapter 6) and renege on other terms determined in the Accord. The state also took the opportunity to assert its policies of exclusion against the Chakma and revert back to overt policies of marginalization through land-grabbing, poor rations, and the militarization of Chittagong Hill Tracts.

Similarly, the state of Sri Lanka took the opportunity to reassert itself as a majoritarian state and failed to provide adequately for all Tamil returnees. But the manner in which the Sri Lankan state was able to accept Tamil returnee-refugees was different from that of the Chakma. The Tamil returnees were housed in welfare camps, or open relief camps, which were managed by the international governmental agencies leading to a larger scope of scrutiny. There were also opportunities for the Tamil returnees to relocate to another location in Sri Lanka, unlike the Chakma who had few places to go as a result of constant military presence in the CHT region. The Shanti Bahini (SB), the militant wing of the Parbattya Chattagram Jana Sangha Samiti (PCJSS), had to disarm as one of the terms and conditions of the Accord whereas the Tamil rebels had refused to

disarm completely leading to better bargaining position of Tamil rebel groups. The growing strength of the armed Tamil rebels was a bigger threat than the SB, who had no recourse to arm; this situation enabled the state of Bangladesh to renege on the basic terms and conditions of the Accord, such as providing land and frequent aid to returnee families in Dighinala. The Tamil counterpart, however, was still marginally better off. The presence of external agencies, such as peace monitors, had an impact on keeping the state in check from reneging from their promised. Therefore, while there is a continuation of policies of exclusion in both countries of origin, which was manifested differently based on perceived role assigned to groups involved (e.g., Chakma and Tamils, based on their physical strength, and whether these groups were armed or not), one group's opportunity to integrate seemed different from the other's. The rebel groups involved in negotiating the Peace Accord with the Government of Bangladesh had espoused the concern over the Chakma people displaced as a result of state-led violence in CHT. On the other hand, the rebel group involved in conflict with the Government of Sri Lanka did not prioritize the concerns of Tamil refugees in Sri Lanka. Furthermore, the differences in the integration of these groups were influenced by the ability of the countries of origin to deliver selectively and yet continue with policies of marginalization in conjunction with the ability to negotiate a better inclusion. Thus on one level, the integration was influenced by patterns of accommodation envisaged by the states in countries of origin, and on another level, these states in question were willing to deliver after they had tested the strength of groups involved in the negotiation.

There were structural similarities in the experiences of Tamil and Chakma returnee-refugees. Yet a few marginal differences prevailed between the groups' post-repatriation

experiences. The disparities between these two cases are based on modalities involved in the repatriation process. More specifically, the manner in which the repatriation process was conducted (complete cessation of violence in one—the Chakma—and momentary cessation of violence as a result of ceasefire—in the case of the Tamils) has led to different outcomes in the integration of refugees. Furthermore, the question of security of returnee families, the politics of ration distribution, and the involvement of non-governmental organisations in aiding the rehabilitation process account for diverse integration patterns.

The home country settles conflicts and facilitates the process of accommodation to returnees as part of the process of devolution or as a result of pressure from external agencies. As part of the devolution package, the Bangladesh state accepted the distinctive identity of the Jumma people (Chakma) and enhanced their rights. Moreover, the Chakma refugees were allowed to visit the country of origin and develop possible mechanisms to address issues of rights, specifically related to re-possession of land rights, but in reality, many of these rights are yet to be implemented. In contrast, the Tamils were repatriated only on the basis of the ceasefire agreement without any concrete proposal that addressed the concerns of Tamil refugees. Yet, ironically, the empirical evidence suggests that opportunities to negotiate and bargain for better living conditions were higher for the Tamils as opposed to the Chakma due to the ongoing conflict in Sri Lanka and the un-actualization of returnee rights in Bangladesh. The politics of re-integration of refugees in countries of origin reiterate the continuity of pre-refugee policies premised upon the politics of exclusion.

## ***Conclusion***

I have examined the literature on state-formation and citizenship to discuss notions of belonging held by states, the prioritization of rights-based approach on citizens, and the nexus between the state and those who can legally belong within the territory. The state-centric views of a rights-based approach tend to exclude “mobile” communities on the criteria of belonging based on membership. I have argued that refugee accommodation poses a challenge to the idea of citizenship based on notions of nationality. I have analyzed the literature on citizenship to discuss the centrality of a rights-based approach and the manner in which it creates a hierarchy of belonging. I have also analyzed notions of “home” in refugees’ narratives to discuss motivations of refugee repatriation, especially in the absence of status in exile. In this context, I have discussed the nation-building projects of Sri Lanka and Bangladesh, especially how state-formation demarcated boundaries of belonging between communities on lines of majority and minority. In the next chapter, I illustrate the claims of asylum states that exclude the rights of non-nationals, especially refugees. The politics of marginalization within refugees’ countries of origin create the conditions for refugee flow that are later replicated in their countries of asylum. In the chapters that follow, I will examine the politics of marginalization to develop a comprehensive appreciation of refugee-generation and the consequences of the lack of accommodation of refugee groups in their countries of origin.

## CHAPTER 3

### *The Politics of Exclusion: Refugee Rights in Postcolonial South Asia*

#### *Introduction*

This chapter explores citizenship rights and the politics of exclusion of refugees in the postcolonial states of India, Bangladesh, and Sri Lanka. I discuss state membership or citizenship rights as the theoretical point of departure to understand how these rights in postcolonial Sri Lanka and Bangladesh, and later India, affect Tamil and Jumma people. I assert that the distinctive nature of citizenship rights in Sri Lanka and Bangladesh was the result of policies of state-formation and state-building, which contributed to the discrimination and alienation of minority communities. The dominant cultures in Sri Lanka and Bangladesh favoured the imposition of the Sinhalese and the Bengali culture over the Tamil and the Jumma communities in Sri Lanka and Bangladesh, respectively, constituting a hierarchy of rights and belonging. These conditions were later instrumental in generating conflicts and refugee flow to India, and they remained an impediment to the integration of Jumma and Tamil refugee returnees after their repatriation from India.

In this chapter, I investigate the following questions: What determined refugee rights in exile? I examine this question in light of the state-formation in postcolonial South Asia, and I discuss whether the typical kind of state-building and nation-building contributed to the differentiated hierarchy of belonging in Sri Lanka and Bangladesh creating conditions of refugee flow in India. In essence, I seek answers to my first research question: What factors determine whether or not refugees in South Asia will be repatriated to their countries of origin? After a careful analysis of policies and citizenry rights, I argue that the uniqueness of state-formation in South Asia dictated a particular trajectory of

citizenry rights that excluded non-citizens and cultivated a politics of belonging based on nationality. I use the term “postcolonial state” in South Asia to explore different forms of state, “stateness,” and governance that perpetuated a particular sense of alienation among minority groups.

### ***The Politics of Marginalization in India, Bangladesh, and Sri Lanka***

The state-building processes in postcolonial societies were responsible for developing a particular trajectory of accommodation for minority rights. *State-building* is defined as “a process of centralization”<sup>93</sup> initiated by a bureaucracy through coercion over a particular territory. The state represents a set of institutions with an extreme coercive power of domination and an autonomous structure of power with a monopolization of the means of force (Evans et. al 1985; Mann 1986; Midgal 1988; Skocpol 1979; Smith 1983; Tilly 1975; Abrams 1988), and it professes to protect territorial integrity, which follows the Weberian idea of state “as an organisation that claims a monopoly within a fixed territory over a legitimate use of violence,” (Mitchell 1991, 82); but Schmitter (1985, 33) asserts that the “state is also a modern amorphous complex agencies with ill-defined boundaries, performing a great variety of not very distinctive function.” The typical nature of state-formation in South Asia was beset with the arduous task of accommodating the diverse needs of an ethnically divided society.

Some states followed the policies of “homogenization” (Rae 2002, 14-55) wherein the majority community tends to be the dominant group (where subordinate groups may not be forced to assimilate), whilst other countries (states) adopt a relatively pluralist policy

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<sup>93</sup> Constance G. Anthony, “Africa’s Refugee Crisis: State Building in Historical Perspective,” *International Migration Review* XXV, no. 3 (1991): 574-591.

of accommodation with a strong state to counter divisive tendencies emanating from societal needs. Essentially, in these societies, this kind of state-formation had an impact on state-building and the policies of accommodation. Tilly (1990, 25-26) identifies this homogenization as the “process of internal consolidation and concomitant differentiation of the internal and external aspects of the state”<sup>94</sup> in which a state assumed absolute control of the internal structure. While explaining the typical processes of state-building that subscribed to the notion of the modern nation-state as a “conceptual community,” Giddens (1985, 104-110) assert that “the unity of the national state has a cultural dimension” but ignores the constitutive role of culture and its heterogeneity. The construction of the modern nation-state created a moral community, yet it demarcated belonging (for example, inclusion and exclusion) and, predictably, it pushed a certain number of people outside its territory. Both Tilly and Giddens discuss an idea of a homogenized state that adopts different strategies of homogenization by means of forced assimilation, expulsion, or extermination of its members.

However, the state can act on two different but intersecting arenas. Migdal (1988) argues that social forces in a society can be distinguished easily from the state forces, as state and societal forces exist in a continuum. For example, the state has legal authority and legitimacy to exert control over a particular territory and can exert coercion to maintain this control. However, the distinctiveness of the state as an institutional structure may vary based on region. The pattern of domination can be traced back to the distinctive kind of, and nature of, the history of state-formation, which in turn shapes state capabilities (Migdal 1988, 4), and its functioning capacity as state has the power to

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<sup>94</sup> Charles Tilly, *Coercion, Capital and European States, AD 990-1990* (Oxford: Basil Blackwell, 1990), 25-6.



penetrate society, regulate social relations, and extract and appropriate resources. The image of a strong state has remained a fundamental phenomenon in most developing countries. Rothchild (2002) discusses the problem of the weak state and issues of low legitimacy and lack of social cohesion in the context of African countries that had undergone various levels of state crises to develop policies to manage the diverse populace. The odd combination of the weak state and low legitimacy led to the failure of the postcolonial state and the inability to create an effective political order. In some instances, the nature of the political order was coercive and intrusive.

In South Asia, state-formation and the subsequent nation-building project aimed at including people of multi-ethnic origins went forward, but it succeeded only in a few instances. *State-formation* is defined as the “creation of durable states...transformations of basic structural features of these states.”<sup>95</sup> *State power* can be defined as the “capacity for carrying out decisions and activities on behalf of a society by specific state agencies that have monopoly of power” (Skalnik 1989). The state is viewed as an abstract entity with an extensive reach towards people within certain territorial boundaries. It seems like “an illusion and organ” “superimposed on society” with “organized political forces” (Moore 1969). The state exists within two kinds of boundaries: the first is based on territoriality and the other is the state-society divide that tends to co-opt the state structure within the societal framework. The structural features in state-formation should be an on-going process rather than a one-time phenomenon. The structural features of states involve the entire set of rules and institutions involved in making the state function as a unit, in regards to managing day-to-day affairs and policymaking. Despite misgivings

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<sup>95</sup> George Steinmetz, “Introduction: Culture and the State”, in *State/ Culture State Formation after the Culture Turn*, ed. G. Steinmetz (London: Cornell University Press, 1999), 1-51.

regarding the functioning of state power, the state as an institutional structure remains in a position of authority to determine the membership of those living within the territorial domains of its state structure.

Despite the shared colonial history in the South Asia region, the experiences of Sri Lanka, East Pakistan, and later Bangladesh vary remarkably from that of India, which has a clearly stipulated need to be multicultural to accommodate pluralist tendencies.

Countries like Sri Lanka and Bangladesh failed to accommodate completely certain minority groups. Whereas the states of Sri Lanka and Bangladesh adopted a unitary model as opposed to a federal system with a bifurcation of power distribution, India adopted a federal system. In India, the strong party system and the accommodation of linguistic demands rather than religion (with the exception of religious laws) facilitated the process of nation-building where degrees of state autonomy were different. Rudolph and Rudolph (1987) characterize the Indian state as semi-autonomous or “constrained.” But Kohli (1987) denies that the Indian state had complete autonomy and asserts that it is “weak;” however, Bardhan (1984) disagrees with Kohli’s assertion and points out that the Indian state was able to develop policies independently of “goals and aspirations of propertied class” (Barkey and Parikh 1991, 536).

The state structure in Sri Lanka and Bangladesh was more complex than the structure in India: the unitary states in these two countries failed to accept pluralism as a cardinal rule of accommodation. Moreover, the duality of the weak state and strong societal tendencies resulted in strong separatist movements first in East Pakistan and later in Bangladesh. Both Sri Lanka and Bangladesh had originally adopted the middle path and opted to uphold the dominant cultural politics by way of dominance of a unitary state and

majority culture. Edrisinha (1999, 176) asserts that Sri Lanka's first Constitution had some basic provisions to protect minorities in Section 29(2) to ensure the equality of all religions and create a political barrier against the imposition of majority rights.<sup>96</sup> However, post-independent Ceylon/Sri Lanka failed to abide by this Section of the Constitution aimed at countering the "bulwark of majoritarianism" in the Sri Lankan polity. The two Republican constitutions of 1972 and 1978 weighed heavily in the favour of the majority—the Sinhalese community. The 1972 Constitution elevated the position of Buddhism as a state religion to a new height that was a turning point in the ethnic relations in Sri Lanka. The 1978 Constitution caused the entrenchment of the feelings of alienation further among the minority-Tamil community, as Buddhism acquired the foremost position in the Constitution and as questions of Tamil language failed to be addressed. Moreover, the constitutional reforms of 1995 retained the provisions of "Buddhist primacy."<sup>97</sup> Uyangoda and Bastian (1994) argue that the nature of the state during colonial and post-independent Ceylon did not have adequate means to accommodate Tamil sentiments and aspirations based on differences of language, historical past, religion, and "territory of traditional habitation." The nature of the

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<sup>96</sup> Rohan Edrisinha, "Constitutionalism, Pluralism, Ethnic Conflict," in *Creating Peace in Sri Lanka: Civil War, and Reconciliation*, ed. Rotberg Robert I (Washington: Brooking Institution Press, 1999), 176. Section 29 (1) and (2) read as follows: "(1) Subject to the provisions of the Order, parliament shall have the power to make laws for peace, order, and good government of the Island. (2) No such laws shall – (a) Prohibit or restrict the free exercise of any religion; or (b) Make persons of nay community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or (c) Confer on persons of any community or religion any privileged or advantage which is not conferred on persons of other community or religions; or (d) Alter the constitution of nay religious body except with the consent of the governing authority of that body: Provided that in any case where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body."

<sup>97</sup> Ibid., 176.

political development in Sri Lanka seemed to favour a centralized strong state, which also became the master form of “the political/constitutional order.”<sup>98</sup>

Similarly, the state of Bangladesh pursued policies of majoritarianism, which alienated minorities. The state professed to be secular but failed to define the terms and conditions of secularism. The dominant Bengali-speaking Sunni Muslims threatened to impose their brand of secularism and failed to accommodate the ethnic minorities in the Chittagong Hill Tracts (CHT). The majoritarian policies were perceived by the ethnic minorities—especially the Chakma community—as a threat to their exclusive status and as a denial of their distinctive cultural heritage. The Constitution of 1972 failed to provide a special status to the *paharis* (indigenous people) of the Chittagong Hill Tracts—a status they had previously enjoyed during the colonial rule. Specifically, this Constitution imposed a particular kind of nationalism that prescribed the complete submission of the *paharis*: they were to become Bengali, and thus their sensibility as a distinct ethnic minority was marginalized. This brand of Sunni-Bengali identity became synonymous with Bangladeshi nationality.<sup>99</sup> Moreover, the idea of Bangladeshi nationality became intertwined with religion rather than with language only. The earlier kind of nationalism was based on Bengali as a special language encompassing every sphere of society with an overtone of a distinctive multi-religious perspective. Ironically, the creation of the state of Bangladesh was the end result of a very successful ethno-religious movement waged by the Bengali-speaking Muslims against the Urdu-speaking Muslims of West Pakistan. Since 1972, Bangladesh has had to face issues of low legitimacy, a lack of social

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<sup>98</sup> Jayadeva Uyangoda, “The State and the Process of Devolution in Sri Lanka,” in *Devolution and Development in Sri Lanka*, ed. Sunil Bastian (New Delhi: Konark, 1994), 90.

<sup>99</sup> T. Murshid, “State, Nation, Identity: The Quest for Legitimacy in Bangladesh,” *South Asia* 20, no. 2 (1997): 1-34.

cohesion, and a low state capacity to deal with the multitude of problems of state-building. Due to the problems of the majority of polices of the predominant Bengali-speaking Sunni Muslims, the state of Bangladesh persecuted the paharis, which resulted in the Chakma/ Jumma seeking refuge in India. In Bangladesh, state-building entailed aggressive policies of dominance by ethnic majorities over minorities that finally resulted in armed conflict and the flight of Chakma and Tamil refugees to India. In the case of Sri Lanka, a strong and intrusive state apparatus with little inclusion of minorities and state-led violence created the Tamil refugees. The state failed to accommodate minority sentiments at one level, and on the other, failed to accept Tamil refugees after repatriation. The Bangladesh state had problems of low legitimacy as a result of state-led policies of majoritarianism, and the suppression of ethnic minorities in the Chittagong Hill Tracts led to state-sponsored violence and massacres leading to the flight of Chakma refugees to India.

State-formation in the region of South Asia does not have any distinctive common traits that can be applied universally across borders. In the Indian context, the nature of institution-building (Weiner 1989) had remnants of colonial heritage, but similar arguments do not hold true for Bangladesh and Sri Lanka. As the Sri Lankan government attempted to build a democratic polity, the Bangladesh state was undergoing various rounds of military government, which perpetuated intense policies of Islamization. The process of decolonization in Sri Lanka seemed smoother and less problematic than in East Pakistan and later Bangladesh. However, both Sri Lanka and Bangladesh attempted to restore the dominance of the majority culture by curbing the rights of minorities.

The case of India presents an interesting contrast between Sri Lanka and Bangladesh. The elites in India, unlike those in Sri Lanka and Bangladesh, had to contend with a heterogeneous population that laid the foundation of state-building. Sri Lanka and Bangladesh had a relatively homogenous population that focused on creating a unitary form of governance with centralized power, whereas India adopted the federal form of government and attempted to accommodate the varied demands of its culturally diverse population.

In India, the multicultural and pluralist tendencies were upheld and were carefully reflected in various policies. Nandy (2006, 282-302) asserts that the Indian state has three predominant images: first, as a state as a protector; second, as a state as a modernizer/liberator; and third, as a state as an arbiter. Similarly, the Indian state is not monolithic; rather, "it is layered and shared."<sup>100</sup> The Indian state defined official ideology along the lines of a pan-Indian nationalism based on territorial integrity and secularism, and it adopted federalism and accepted the formation of new states along linguistic lines but remained firm in denying rights or accepting any religious-based demands.<sup>101</sup> This line of argument tends to accept that the Indian state was responsible for accommodating diverse demands, but it fails to explain certain kinds of conflict. Despite the Indian state's accommodation strategies, there has been an upsurge in conflicts, and as Subramanian (1999a, 2002)<sup>102</sup> argues, some of these state-centred explanations are ill-equipped to explain the "upsurge in ethnic conflicts" in India. Also, some have been unable to explain

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<sup>100</sup> See Sugata Bose and Ayesha Jalal, *Modern South Asia: History, Culture and Political Economy* (New York: Routledge Press, 1998), 243.

<sup>101</sup> See P. Brass, *Ethnicity and Nationalism*; and *Language, Religion and Politics in North India* (Cambridge: Cambridge University Press, 1974); and Myron Weiner, *The Indian Paradox: Essays in Indian Politics* (Delhi: Sage Publication, 1989).

<sup>102</sup> Subramanian (2002, 410) further adds that the effective "party-society interactions have not only shaped the divergent paths taken by ethnic forces, they have contributed to the crisis of Indian nation-building associated with the growth of these forces."

the rise of militancy in ethnic movements (Brass 1974, 1999). Subramanian (2002, 410) adds that the effective “party-society interactions have not only shaped the divergent paths taken by ethnic forces, they have contributed to the crisis of Indian nation-building associated with the growth of these forces.” The Indian state has adopted varied strategies of accommodation, but it has failed to grant rights to non-citizen categories. I would argue that the Indian state has defined the politics of belonging along lines of nationality; effectively it has chosen to de-recognize rights of other claimants such as people crossing international borders and continue to reside in India for a long period of time. Moreover, these also indicate that despite the overt policies of accommodation the Indian state, too, has run into problems of application, which is applicable more in relation to rights of those who do not legally “belong.” Chatterjee (2004, 68), while discussing the “logic of governability,” asserts that a bifurcation exists between “rights and entitlement”<sup>103</sup> of citizens. The rights approach argues for the political acceptance of citizenship status, an acceptance and acknowledgment by the state, so that those lacking documents can make claims to certain kinds of entitlement but not to political status. Despite the accommodative tendencies in India, the issue of membership was defined based on nationality first, and in some rare occasions, through the process of registration.

The state policies in the South Asia were directly responsible for generating conditions of refugee flow. The question of refugee repatriation will be discussed in a later section. The question of refugee status is an important issue in South Asia. The Indian state has broad-based policies of accommodation but has failed to address the

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<sup>103</sup> Chatterjee (2004, 68), while discussing rehabilitation and compensation to displaced people especially resulting from development projects, asserts the difference between rights and entitlement. The bifurcation between rights and entitlement is typically applied to those who have voluntarily resettled as opposed to those involuntarily resettled.

rights or status of refugees. In the latter section, I will discuss the question of belonging more specifically in relation to refugee rights in exile, in India.

The states in South Asia had several common trajectories of belonging. Some of their policies had explicit links with group marginalization in countries of origin. In this chapter I have so far discussed some of the commonalities in relation to state-formation and its impact on the process of belonging on the basis of membership. India did not adopt policies to accommodate the non-citizens; in the next section, I will analyze the place of refugees in this framework. India too, felt threatened by the large refugee presence and failed to adopt explicit policies of refugee protection and assistance. Rather, it maintained “open-door” policies without providing refugees legal status.

### ***Determining the Question of Belonging in South Asia***

The nature of postcolonial state-formation in Sri Lanka, India, and Bangladesh has shaped the question of belonging, membership, and citizenship rights. Unlike in Western countries, the state-formation that ensued in Sri Lanka, India, and Bangladesh followed a particular historical trajectory that was shaped by colonial history. In this context, citizenship rights came to be viewed as fixed and determined primarily by state policies. Seider (2001, 203-220) asserts that citizenship as a “fixed and non-negotiable set of rights and obligations... as embodied in a written constitution” seemed to apply to most states in postcolonial societies. States in these societies determined citizenship rights as a political recognition, for example, a legal acceptance or belonging within the structure and domain of statehood. Citizenship is determined by a kind of “juridical relationship” between the state, territory, and the people residing within the geographical area. The finality of citizenship rights is based on a certain degree of membership within the territorial bounds



of statehood. Turner (1990, 189-217) argues that citizenship is not a mere extension of rights brought about by the exchange of the cultural and collective rights of a territorial cultural minority in pursuit of a homogenous nation-state; rather, citizenship rights have evolved and become more inclusive. Though conceptually, citizenship has evolved from a conception of rights attached to an individual (Marshall 1964) to include “rules of inclusion” (Brubaker 1992) and rights attached to groups (Orloff 1993, 303-28), it does not apply to non-citizens. A sense of belonging, identity, and nationality seems to be tied to a particular territory that legitimizes the status, rights, and entitlements of people belonging to this territory. I question the basis of identity tied to territory and analyze the position of two groups of minorities (Chakma and Sri Lankan Tamils) in their country of origin (Bangladesh and Sri Lanka) prior to seeking refuge in a country of asylum (India). By definition, as defined by states, such rights and entitlements do not include those who are “outsiders” and have chosen to flee from state atrocities. I argue that these rights should extend to non-citizen categories, too. Furthermore, I assert that state-centric views on non-citizen rights determined the process of refugee rights and later laid the trajectory of the repatriation process in India.

The changing pattern of population movement and the dynamics of citizenship laws have an impact on the abilities of states in South Asia to accommodate the varied interests of its diverse peoples. Citizenship rules are important markers that determine boundaries of inclusion and exclusion of individuals and groups. The identities of people are transformed because of their legal position within the state structure. The politics of belonging in countries of origin can be determined on the basis of the nature of the state-building model adopted by countries such as Sri Lanka and Bangladesh. However, the

argument is further strengthened when same the group of people, when displaced, sought refuge in India but failed to acquire political status. Thus, the nationality of the person determines the legal status of citizenship, which is well embodied within the citizenship laws of the state and outside of which the refugees fall. The emphasis is more on the state-determined and state-centric views of rights of citizenship. A few cases can illustrate this point further. During the creation of new states in South Asia, especially Sri Lanka and Bangladesh, certain categories of people had great difficulties in gaining political status as citizens. Some of these groups were the Biharis in East Pakistan (Bangladesh), the Chakma in Arunachal Pradesh (India), and the Estate Tamils from southern India (groups that migrated in the colonial period). These people were disenfranchised and politically stateless.

The Biharis in Bangladesh were part of the legacy of West Pakistan and were never incorporated into the folds of the newly-created democratic state of Bangladesh. Most of these non-Bengali and predominantly Urdu-speaking peoples were part of the non-independence movement in East Pakistan, and after the creation of the new state of Bangladesh, they were seen as *traitors*. Since they were sympathizers of Pakistani nationalism and opposed Bengali nationalism, they were *de facto* stateless in Bangladesh. The Biharis continue to live in camps in Bangladesh. They are still “stranded” in camps at the outskirts of Dhaka, at Mirpur and Mohammadpur, and more than 20,000 refugees live at densities of ten people or more to a tent. The camps contain a large number of widows and infants. Short-term problems in the camps include not only food and health issues but also the concern over the lack of some basic amenities such as water, sanitation, and security.

The Chakma/ Jumma are part of the thirteen ethnic communities displaced due to the creation of the Kaptai Dam in East Pakistan in the mid-1960s. Thousands of Chakma families fled the Chittagong Hill Tracts (CHTs) and entered Arunachal Pradesh and Tripura in 1964. Initially, these displaced people were settled in various camps in Arunachal Pradesh in 1966-68. The government provided financial and food rations to these refugees. In September 1992, the Union Minister of State for Home stated in a letter to a local member of the Parliament that “refugees who came to India between 1964-1971 were eligible for the grant of citizenship.”<sup>104</sup> However, the Supreme Court of India gave a ruling that the Chakmas were not entitled to citizenship under Section 6-A of the Citizenship Act of 1955, which contains certain special provisions with regard to persons of Indian origin who came to Assam before 1966.<sup>105</sup>

The Estate Tamils were brought to the central part of the island of Sri Lanka by the British starting in 1834 to work on coffee, and later tea, plantations.<sup>106</sup> As labourers on the Tea Estate, they occupied the lowest socio-economic stratum of Sri Lanka’s society, earning lower wages than those in the other sectors of the economy of the island and suffering poorer literacy rates and poorer health and housing compared to the rest of the population.<sup>107</sup> They are different from the other Tamil population from India who inhabit the north and east of the island. Under the constitutional reforms of 1928, the Estate Tamils were given the right to vote,<sup>108</sup> but since independence in 1948, both the Sinhalese

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<sup>104</sup> *The Times of India*, 9 May 1994.

<sup>105</sup> With the exception of Khudiram Chakma’s case, the Supreme Court has not granted state protection. No further cases in which refugees have been granted any such protection exist.

<sup>106</sup> Daniel Valentine, *Chapters in the Anthropology of Violence* (New Jersey: Princeton University Press, 1996), 75.

<sup>107</sup> See P. Sahadevan, *India and the Overseas Indians: The Case of Sri Lanka* (New Delhi: Kalinga Publications, 1995), chapter 4.

<sup>108</sup> Myron Weiner, “Rejected Peoples and Unwanted Migrants in South Asia,” *Economic and Political Weekly* 28, no. 34 (1993): 1153.

and the Sri Lankan Tamils view the Estate Tamils as an opportunist group of “unwanted migrants who should return home.”<sup>109</sup> After independence, the Estate Tamils claimed citizenship under the new Ceylon Citizenship Act of 1948. This proved to be a difficult task as most of the Estate Tamil families, who had returned to India to marry and consequently had children, did not have the requisite documents. Furthermore, no official registration of birth existed until 1897.<sup>110</sup> The Ceylon Citizenship Act was soon followed by the Indian and Pakistani Residents Acts of 1949, which seem less draconian than the 1948 legislation in that they provided for a seven- or ten-year period of “uninterrupted residence” in Sri Lanka as a qualification for citizenship. This further disenfranchised the Estate Tamil workers who periodically returned to Tamil Nadu and had no documents to prove seven or ten years of “uninterrupted residence.” In addition to the residential qualification, applicants needed an assured income that was beyond the reach of the majority of Estate Tamils (Sahadevan 1995, 128). This led to both the disenfranchisement and the denial of citizenship for over 95 percent of the Estate workers; that is, for over one million people Weiner (1993, 1154). However, the Estate Tamils’ case seems slightly different from the Tamils living in northeastern Sri Lanka. In the former case, the nature of disenfranchisement was settled through various means of dialogue and agreements with India.

Of the many cases of disenfranchisement in South Asia, I have discussed only a few. The stateless people in Sri Lanka (Estate Tamils), the Biharis, and others were legacies of the postcolonial state structure. Unlike some Estate Tamils in Sri Lanka, the Chakma in India and the Biharis in Bangladesh continue to be completely marginalized and stateless.

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<sup>109</sup> Ibid., 1159.

<sup>110</sup> T. Peiris, *Citizenship Law and the Republic of Sri Lanka* (Colombo, 1974), chapter 1. Also Weiner 1993: 153.

Some Chakma (those who entered India prior to 1965) have been *de facto* accepted as citizens, but they are few in number. The Biharis still live in camps, and there has been talk of possible repatriation to Pakistan, but to this day no such political solution has been achieved. Many arguments exist against the Biharis being forced to repatriate (if the state of Pakistan would receive them), since after the formation of Bangladesh, they are both *de facto* and *de jure* Bangladeshi nationals, and therefore entitled to citizenship rights. The Estate Tamils were given some official recognition, but with the change in political regime, sometimes these rights and privileges are withdrawn; therefore, their rights are transient.

The concepts of state and citizenship directly affect the refugee situation in South Asia. I study two refugee groups in India—the Jumma refugees from Bangladesh and the Tamils from Sri Lanka. The Jumma and the Tamils refugees had sought asylum in India during various stages of internal conflicts in Chittagong Hill Tracts (Bangladesh) and Sri Lanka. These two groups have been in exile for more than ten years in the Indian states of Tripura and Tamil Nadu. Given the complexities of the region and the close ethnic affinity existing between refugee groups and their place of refuge, refugees were in exile for a long period of time. But the Jumma or Chakma refugees have been “completely and successfully repatriated” to the Chittagong Hill Tracts (CHT). The Chakma repatriated on the basis of tripartite talks between refugee communities, country of origin, and country of asylum. In the interviews and discussions that followed the repatriation to the Chittagong Hill Tracts,<sup>111</sup> Mannar and Vavuniya refugee-returnees<sup>112</sup> told stories that

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<sup>111</sup> Interviews were conducted after refugees were repatriated to CHT. The refugee communities expressed their concerns over the circumstances under which “repatriation had taken place” along with “modalities involved in repatriation process.” Interviewed in August 2002, Khagracharri and Rangamati.

<sup>112</sup> Interviewed in June 13-20, 2002, various welfare camps in Vavuniya and Mannar.

signalled that repatriation was “a way out”<sup>113</sup> as opposed to a voluntary return to their country of origin. The Tamils from Sri Lanka have had similar difficulties in their repatriation: some have been repatriated and others have continued to live in exile for more than a decade now. They were repatriated on the basis of an agreement between the countries of origin and of asylum and the UNHCR. In the cases of both refugee groups, it was evident that refugees were forced to flee their homeland due to internal conflict between groups that were seeking political representation and acceptance at par with majoritarian communities in Bangladesh and Sri Lanka.

### ***Refugee Rights in India***

In relation to almost all its neighbours, India has been more of a refugee-receiving than a refugee-generating country because of its easy accessibility of borders, its economic opportunities, and its democratic and generally “soft state” (Muni and Baral 1996; Samaddar 1990). Despite its prolonged history of receiving refugees, India does not have any particular legislation that protects or assists refugees. Unofficially, two categories of refugees receive either recognition or assistance in India: first, the Tamils from Sri Lanka and the Tibetans; and second, the Chakma/ Jumma refugees. In the case of the Tibetans and the Tamils from Sri Lanka, the Government of India accepted their presence and designated them as refugees in need of immediate assistance. In accordance with the typology, the Sri Lankan Tamils have been accorded some recognition and protection by the host state (India). Tamil refugees continue to reside in various camps in India. However, the Chakmas of Bangladesh have not been formally recognized by the Government of India. Thus, the lack of the official recognition of refugees has created

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<sup>113</sup> As stated during interviews in Vavuniya, 14 June 2002.

refugee hierarchies in India. Some of the refugees who sought asylum in India during various stages are Tibetans, the 1971 Bengali-speaking refugees from East Pakistan, Jumma refugees from Bangladesh, Tamils from Sri Lanka, and Afghan refugees.

In terms of determining rights and privileges, the Union Legislature (Parliament) in India has the sole jurisdiction over the subject of citizenship, naturalization, and aliens. The official status of the refugee is interpreted under the Foreigners' Act of 1940 and is normally applicable to those who have entered India under false premises. Moreover, in India, the categories of aliens,<sup>114</sup> illegal migrants, and refugees are conflated. In contrast, the international refugee regime defines a *refugee* as "one who is outside the country of nationality (or even habitual residence) due to one of five situations as stipulated in the definition of the 'well-founded fear of persecution' on the basis of religion, race, nationality or membership of a political or social group."<sup>115</sup> In the case of India, the decision of refugee determination is not based on either an individual or a group; rather, it is viewed as a bilateral issue between the country of origin and of asylum, for example, the Estate Tamils and the Chakma refugees in Assam prior to 1968. Most of these "refugees" are viewed as foreigners, and the UNHCR has the task of granting them assistance and protection.

India does not recognize refugees in any official capacity but has adopted a liberal viewpoint as stipulated in the constitution of India—Article 14: the right to equality; Article 21: the right to personal life and liberty; and Article 25: the freedom to practice

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<sup>114</sup> See Chimni, "The Legal Conditions of Refugees in India," *Journal of Refugee Studies* 7, no. 4 (1994): 379. Although the word "aliens" is nowhere defined, it appears in the Constitution of India (Art. 22 part 3, and Entry 17, List I, Schedule 7) in Section 83 of the Indian Civil Procedure Code, and in Section 3 (2) (b) of the Indian Citizenship Act, 1955, as well as some other statutes. Several acts are of relevance to the regulation of aliens in India including the Foreigners' Act of 1946, the Registration Act, 1939, the Passport (Entry into India) Acts, 1967, etc.

<sup>115</sup> See Art. 1(A) (2) of the 1951 Convention on Refugees.

and propagate one's own religion, which are guaranteed to citizens and non-citizens alike. Moreover, the Indian Supreme Court has ruled that the rights of foreigners/ refugees are not to be limited to Article 21, to the "protection of life and personal liberty—no persons shall be deprived of his life or personal liberty except by procedure established by law."<sup>116</sup> In spirit, the Constitution of India also provides adequate safeguards and upholds the principle of *non-refoulement*: "no refugee should be returned to any country where he or she is likely to face persecution or torture."<sup>117</sup> Article 21 of the Constitution requires that the state shall not expel or return a refugee "in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group, or political opinion,"<sup>118</sup> which reflects the spirit of the principle of *non-refoulement*.<sup>119</sup> Some refugees<sup>120</sup> have benefited from some of these rights enshrined in the Constitution of India, and a few cases exist where they were successful in drawing the attention of judiciary—a few of these cases were in the High Court of Madras.<sup>121</sup> The Supreme Court of India has also stayed orders

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<sup>116</sup> See Saxena, "Legal Status of Refugees, the Indian Position," *Indian Journal of International Law* 26 (1986): 501-515.

<sup>117</sup> B. S. Chimni, "The Geopolitics of Refugee Studies: A View from the South," *Journal of Refugee Studies* 11 (1998): 350-75.

<sup>118</sup> Article 33, Paragraph (1) of the 1951 Convention on the Status of Refugees.

<sup>119</sup> The obligation of *non-refoulement* in part of Article 33 (1) of the 1951 Convention Related the Status of Refugee Determination.

<sup>120</sup> Gurunathan and others v. Government of India (WP No. S 6708 and 7916 of 1992); A.C Mohd. Siddique v. Government of India and others (1998 (47) DRJ (DB), p. 74).

<sup>121</sup> Two such cases exist where refugees were able to approach the court to argue against the issue of repatriation. The two unreported decisions of the Madras High Court in P. Nedumaran and Dr. S. Ramadoss v. The Union of India and the State of Tamil Nadu (1992) assessed the "voluntariness of repatriation process." In the case of P. Nedumaran v. Union of India, a Sri Lankan refugee appeared before the High Court of Madras and presented a *writ* of mandamus. It advised the Union of India and the State of Tamil Nadu to permit the UNHCR official to ascertain the voluntariness of "refugees going back to Sri Lanka" and to permit refugees to continue to stay in the camps in India. The court expressed the verdict "since the UNHCR was involved in ascertaining the voluntariness of the refugees' return to Sri Lanka, hence being a World Agency, it is not for the court to consider whether the consent is voluntary or not." The Court acknowledged the competence and impartiality of the representatives of the UNHCR. However, the case is pending before the National Human Rights Commission of India, 13 August 1997, cited from T. Ananthachari, "Refugees in India: Legal Framework, Law Enforcement and Security," in *ISIL Year Book of*



of the deportation of refugees, for example, Maiwand's Trust of Afghan Human Freedom v. State of Punjab,<sup>122</sup> N.D. Pancholi v. State of Punjab, and others.<sup>123</sup> In the matter of Malavika Karlekar v. Union of India,<sup>124</sup> the Supreme Court directed a stay on a deportation order of the Andaman Burmese refugees, since "their claims for refugee status were pending determination and a *prima facie* case is made out for grant of refugee status."<sup>125</sup> Given these past precedents, in 1993, the Indian Supreme Court stated that the Chakma are not entitled to citizenship under Section 6-A of the Citizenship Act.<sup>126</sup> However, in an earlier judgment, the Supreme Court in Luis De Raedt v. Union of India<sup>127</sup> and State of Arunachal Pradesh v. Khudiram Chakma<sup>128</sup> clarified that no one shall be deprived of his or her life and liberty without due process of law. Overall, the Indian judiciary has played a constructive role in protecting the rights of the refugees.

Even so, the application of these rights in the true sense has been difficult. The Indian state does not recognize the rights of non-citizens and has not stipulated any special rights. The rights of refugees, aliens, and asylum-seekers are not demarcated, and they are all viewed as "foreigners." Those belonging to the "non-citizens" category have few or no specific rights. But with the liberal interpretation of the Indian judicial system to act responsibly and effectively, some of these cases have been tried on a case-by-case

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*International Humanitarian and Refugee Law* 7 (2001).

<sup>122</sup> CrI WP No. 125 and 126 of 1986.

<sup>123</sup> N. D. Pancholi v. State of Punjab and others [WP (civil) No. 1294 of 1987, unreported].

<sup>124</sup> CrI. WP No. 243 of 1998.

<sup>125</sup> T. Ananthachari, "Refugees in India: Legal Framework, Law Enforcement and Security," in *ISIL Year Book of International Humanitarian and Refugee Law* 7 (2001).

<sup>126</sup> B. S. Chimni, "Symposium on the Human Rights of Refugees," *Journal of Refugee Studies* 7, no. 4 (1994).

<sup>127</sup> 1991, 3SCC 544

<sup>128</sup> 1994, Supp. (1) SCC 615. See "National Human Rights Commission v State of Arunachal Pradesh and Others," *Bulletin of IHL and Refugee Law (New Delhi)* 1, no. 1: 147-59.

basis.<sup>129</sup> One such case was heard during the time when the National Human Rights Commission (NHRC) had approached the Supreme Court under Article 32 of the Indian Constitution to argue that Articles 14, 21, and 25 were violated. Some of these rights have been remedied by the enforcement of a few fundamental rights by the Supreme Court under Article 32<sup>130</sup> and by the High Court under Article 226. In one such case, when a Chakma refugee's rights were infringed upon by an activist student union, the court directed "relief on the basis of aliens under Article 14 and 21" (Chimni 2000, 492).<sup>131</sup> There have also been other situations in which the courts have prevented and "stayed" such deportation proceedings.<sup>132</sup>

The process of refugee determination in India has been quite indiscriminate. The process is determined neither by individuals nor groups; rather, it is based on specific evidence produced (by the refugee) to support his/ her refugee claim. Each claimant has to bear the burden of proof, until all the materials are collected and collated, and independent, internationally acknowledged information is available on the region from which the claimant has arrived. In certain situations, the validity of the information obtained may be reconfirmed by the UNHCR office in the country of origin. The UNHCR office works on a limited mandate and capacity in India, providing a "subsistence allowance" to refugees on a case-by-case basis. Two of these specific cases

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<sup>129</sup> Khudiram Chakma had approached the Supreme Court when his life was threatened within the state of Arunachal Pradesh. The Supreme Court observed that "the fundamental right of the foreigner is confined to Article 21 for life and liberty and does not include the right to reside and settle in this country as mentioned in Article 19 (1) (e) which is applicable only to citizens of this country." *State of Arunachal Pradesh v. Khudiram Chakma* 1994 Supp. (1) SCC 615.

<sup>130</sup> Article 32 of the Constitution of India delineates the Right to Constitutional Remedies. The Supreme Court has the power to issue direction, order writs, etc. for the enforcement of any rights as enshrined in Part III (Fundamental Rights) of the Constitution of India.

<sup>131</sup> See *National Human Rights Commission v. Union of India*, [(1996) 1 SCC 295; *Khudiram Chakma v. Union of India*, (1994) Supp. 1 SCC 614].

<sup>132</sup> SAHRDC, *Refugee Protection in India*, October 1997. Writ Petition nos. 450/83; 605-607/84; 169/87; 732/87; 747/87; 243/88; 336/88.

concerned refugees who had illegally tried to leave the country and were apprehended—the case of Mehmud Ghazaleh<sup>133</sup> (an Iranian refugee) and Shah Ghazai and his minor son, Assadullah (two Afghan refugees). Ghazaleh was registered with the UNHCR and was illegally crossing over to Nepal through the Sonauli border in the district of Maharajgunj, Uttar Pradesh. The refugee was traveling with forged documents and was detained by authorities who discovered that his documents were forged.<sup>134</sup> The Afghani refugees were apprehended near the Attari border in Amritsar, Punjab, while illegally exiting India for Afghanistan through Pakistan. These cases prove that refugees have limited or no rights other than the few rights provided to aliens in the Constitution of India, which does not acknowledge refugees as a category. Sometimes refugees may have valid documents while entering the country of asylum (more applicable to the case of South Asia) but fail to obtain an extension of a travel permit, for example. Under such circumstances, refugees may be issued “leave India” notices. Allegations have arisen that refugees may be security threats to the “stability and integrity of the country” and have *mala-fide* intent to commit harm. Furthermore, a refugee’s detention period is not well documented or recorded until authorities have proven credentials of the individuals concerned.<sup>135</sup> Under these circumstances, each person is detained by officials and *prime facie* investigated.

Despite past precedents and the Indian Supreme Court’s verdict under Section 6-A of the Citizenship Act,<sup>136</sup> all claims of refugee protection under the Constitution and judicial impartiality can be refuted. The longevity of these laws remains a question open to

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<sup>133</sup> A. D. Cri No. 48 of 1994.

<sup>134</sup> The refugee was arrested and placed in the local police station at Sonauli, and a case was registered of FIR u/s 419/420/468/471 IPC read with Sec 3/6 of the Passport Act and Sec 14 Foreigners’ Act.

<sup>135</sup> An Iranian refugee, Syed Ata Mohamadi, recognized by the UNHCR was arrested at the Bombay International airport en route to Canada. The refugee was detained for traveling under a false name. After being detained for a month, the refugee was released only with the intervention of the Bombay High Court.

<sup>136</sup> B. S. Chimni, “Symposium on the Human Rights of Refugees,” *Journal of Refugee Studies* 7, no. 4 (1994).

interpretation. Since these cases are tried on a case-by-case basis, an opportunity exists for partisanship and for overlooking the humanitarian aspect of refugee needs. More cases of infringement of rights have occurred than the protection of such rights.

Overall, the South Asia region lacks a consensus on the definition of refugee, and its states have made meagre attempts to address this issue. The basic principle underlying India's refugee policy is to view the problem strictly from a bilateral perspective. Therefore, in the absence of specific laws, all existing laws such as the Criminal Procedure Code, the Indian Penal Code, and the Evidence Act apply to refugees as well. As for the minimum standard of treatment of refugees, India has undertaken an obligation by ratifying the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to accord equal treatment to all non-citizens (on par with citizens) wherever possible. Presently, India, as a member of the Executive Committee of the UNHCR, has a responsibility to abide by international standards on the treatment of refugees. However, none of the countries in South Asia are signatories to the International Refugee Convention. India ratified the International Covenant on Civil and Political Rights (ICCPR) as well as the International Convention on Economic, Social and Cultural Rights (ICESCR) in 1976. As well, India ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979, under which Article 1 imposes legally binding obligations. In addition, India accepted the principles of *non-refoulement* as envisaged in the Bangkok Principles of 1966, which were formulated for the guidance of member states in respect to matters concerning the status and treatment of refugees. These principles also contained

provisions relating to repatriation, the right to compensation, granting asylum, and the minimum standard of treatment in the state of asylum.

### ***Refugee Experiences in Various Camps in India***

The states in the South Asia region have no formal policies toward refugees; neither do they have any official repatriation policy. Refugees in India fall under the law of the land without any special rights or status. Since India has no official policies or determination processes, refugees are subjected to the arbitrary behaviour of state processes and officials. Nearly 130 refugee camps exist in Tamil Nadu (Suryanarayan and Sudersan 2000, 71). The Tamil refugees entered India in phases; during the first phase, 134,053<sup>137</sup> Tamil refugees sought asylum in Tamil Nadu. In the second phase, 122,000<sup>138</sup> Tamils entered India. The Tamils from Sri Lanka sought refuge as a result of the ongoing conflict in Sri Lanka between the government-led forces and the rebel Tamil groups called the Liberation Tigers of Tamil Eelam (LTTE). Most of the Tamil refugees were housed in various government-managed camps in Tamil Nadu. The registered refugees were allowed to reside in camps, and the “unregistered” Tamil refugees resided with relations and friends in Tamil Nadu. Nearly 115,680 refugees reside in camps in Tamil Nadu. The third wave of refugee flow began in 1995 in which 20,196 Sri Lankan Tamils

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<sup>137</sup> R. Sampat Kumar, “Returnees in Sri Lanka: Life Starts Again,” *Refugees* 63 (April 1989): 19-21.

<sup>138</sup> Government of Tamil Nadu, Finance Department, *Policy Note: Demand No 42, Miscellaneous 1996-97* (Madras 1996).

fled Sri Lanka.<sup>139</sup> The number of non-camp refugees is not accurate because not all of them have registered—the actual number could vary between 35,000 and 45,000.<sup>140</sup>

The Chakma/ Jumma refugees sought asylum in India in the mid-eighties. The paharis-samathabashsis conflict in CHT, Bangladesh and the atrocities committed by the Bangladesh army led to the exodus of the Chakma and other indigenous peoples seeking refuge in Tripura and the North Eastern states of India. The first batch of tribal/ Chakma refugees entered Tripura in April 1986.<sup>141</sup> By the end of 1989, 67,000 refugees were living in various camps in Tripura. The Chakma were settled in six relief camps in South Tripura district: five were under the jurisdiction of Sub-Divisional-Officer Amarpur (Tripura) and one was under the jurisdiction of S.D.O. Sabroom (Tripura). Most of them resided in Takumbari, Pancharampara, Karbook, Nilachari, and Lebachari and Kathalchari camps in Tripura.

In India, refugee treatment varies. I will illustrate the differences in the treatment and management of camp refugees in India through a detailed discussion: first, on the nature of the reception provided to refugee groups; second, on the methods adopted to manage refugee camps, some of which were relatively under the control of the provincial government, while others were directly controlled by the central government; third, on the degree of the ethnic affinity between the host population and the refugee communities; and fourth, on the relationship between the Government of India and the governments of Sri Lanka and Bangladesh (a factor that may influence the repatriation process).

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<sup>139</sup> It is imperative to note that most of these Sri Lankan refugees entering India were much poorer compared to those who sought refuge in the West. Some of these refugees who had relatives in India avoided being registered and never lived in camps. The Tamils who lived in camps were mostly registered refugees.

<sup>140</sup> Department of Rehabilitation, Government of Tamil Nadu

<sup>141</sup> The Chakma File, Government of Tripura.

The reception received by the Tamil refugees from Sri Lanka was better than that received by the Chakma refugees in Tripura. The reception centres were established by the Government of Tamil Nadu, in Mandapam (the closest point of entry from Rameshwaram) to receive Tamil refugees. The refugees arrived from Sri Lanka by ferry across the Indian Ocean in small boats, fishing vessels, and the like, from the northern and eastern parts of Sri Lanka. At the point of entry into India, the Rameshwaram registration process was held by officials after an intense session of interrogation; refugees were then sent temporarily to Mandapam camp. Each refugee family received a settling-in allowance from the Government of Tamil Nadu, and some basic utensils, etc. Often, the allowance consisted of food items (rice, oil, salt, dal, dry chillies, and dry fish on some occasions), clothing items (during festivals), and in some cases, cash. In the initial days, refugees living in these camps were relatively comfortable. They had frequent visits from officials (of the Government of Tamil Nadu) and some non-governmental workers. In contrast to the Government of Tripura, the Government of Tamil Nadu was prepared to receive refugees.

In comparison, the Chakma refugees<sup>142</sup> had a difficult beginning. Some narrated incidents regarding being “stuck” in “no-man’s-land” between India and Bangladesh. The initial reaction to the incoming refugees from Bangladesh was disbelief, and the Border Security Forces (BSF) was instructed to prevent their inflow. The Government of India was unprepared to accept nearly 60,000 Chakma refugees. Some of them were forced to

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<sup>142</sup> Based on refugees’ narratives, after the massacres in CHT, most fled to India, and in this case when family “A” reached the entry point between India and Bangladesh, the Border Security Forces (BSF) tried to force them back into Bangladeshi territory. The BSF officials were given instructions that no “illegal persons were to enter India.” Later, as A’s family narrated the manner in which she and her father hid behind bushes and waited for sunset so that they could “move closer to Indian territory.” Other refugees who were interviewed asserted that some families were beaten when they were discovered by the BSF.

enter India illegally under the cover of darkness and remained stranded in a no-man's-land between India and Bangladesh. The initial reaction after resistance from the BSF was to allow refugees to settle in various camps in Tripura. However, unlike the Tamil refugees, the Chakma refugees were not forced to live in isolation, in special camps.

Ethnic affinity was one of the factors that influenced the Sri Lankan Tamil refugees to seek asylum in South India (Tamil Nadu), since they shared a common language and ethnicity with those living in Tamil Nadu, and since the Government of Tamil Nadu empathized with the plight of the Tamils in Sri Lanka. The domestic politics in Tamil Nadu were effective in encouraging the federal/ central government to adopt a proactive role in the ethnic conflict in Sri Lanka. Thus, the central government was persuaded to take an active role in the plight of the displaced people from Sri Lanka; it adopted an "open door" policy toward refugees fleeing army atrocities in Sri Lanka (I discuss some of these aspects in greater detail in Chapter 4 on Tamil returnee-refugees). In sharp contrast, the people of Tripura shared a common language with Chakma refugees, yet they did not empathize with their cause. Like the Sri Lankan Tamil refugees, the Chakma/Jumma refugees had to flee the army atrocities in the Chittagong Hill Tracts;<sup>143</sup> however, the degree of hospitality they experienced was lower than that experienced by the Tamil refugees in Tamil Nadu.

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<sup>143</sup> The 1980s and early 1990s witnessed a massive inflow of refugees into Indian territories. In 1984-85 massacres occurred in Bhisanchara, Barkal, Gourasten, Choto Harina, and Rangamati. In 1986-87 mass killings occurred in Mahalchari, Manikchari, Dighinala Ramgarh, Baduk Bhanga, Chhowngrasuri, Ghagra, Nakkyapara, Guimara, Matiranga, Haracharra, Sakurachari, Karbaripara, and Morangchari. Between 1988 and the early 1990s, a number of massacres occurred in Tintila, Baghaichari, Longadu, Bagachara, Mahajanpara, Bataypara, Yurengchari, Bogachatar, Dighinala, Kassalong, Lagong, Subulanag, Fakira, Dumdumya, Madirchara, Bandar Haza, Pancharimukh, Upekchari, Ramgarh, Khakrachari, Ganga Rampur, Dewanpara, Fakirpara, Bangori Chara, Bonjogichara, Lakshmicharri, Matiranga, Kudukchari, Bansirampara, and Luhipara, to name a few.



In regards to the Jumma case, India and Bangladesh had a few intense periods of low bilateral relations. Bangladesh Prime Minister Khaleda Zia publicly denied the presence of a large number of the Chakma refugees in India. The initial reluctance to receive Jumma refugees disappeared when more and more of them began to cross the India-Bangladesh border. The involvement of India in the CHT conflict was minimal, although allegations were made that the Indian government was training the militant wing (Shanti Bahini) of the PCJSS, which spearhead the Jumma cause in CHT. When the Awami League assumed power in the 1990s, the Government of Bangladesh formally accepted the presence of Jumma refugees and “agreed to facilitate safe and fair return to CHT.”<sup>144</sup>

The Government of India worked in conjunction with the Government of Tripura and the Government of Tamil Nadu to provide assistance and protection to refugees. The first batch of Bangladeshi (Chakma) refugees entered India on April 30, 1986, through Jalaya, Silachari, and Raishybari.<sup>145</sup> The influx continued, in different phases, until 1991. These refugees settled in various camps, for example, Takumbari, Lebachara, P.R. Para, Karbook, and Silachari, which were operated by the Nutunbazar, Karbook, and Silachari Tehasils. The government in Tripura created the Department of Relief and Rehabilitation (R and R) under the District Magistrate (DM) and Collector, with the South Tripura district to supervise and assist refugees in their day-to-day needs. The task of the DM and Collector was to report directly to the Central Government in Delhi on issues of immediate concern. The Government of India (GoI) released funds directly to the Government of Tripura to enable the proper distribution of relief to refugees and also to help the Department of Relief and Rehabilitation to make the necessary budgetary

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<sup>144</sup> As mentioned by Upendra Lal Chakma in an interview in Khagracharri, CHT, August 2002.

<sup>145</sup> Notes on the Chakma Refugee, Relief Camp, Government of Tripura.

allocations for the duration of the refugees' stay in the relief camps.<sup>146</sup> In matters of day-to-day administrative jobs, the camp-official-in-charge had the authority and discretion to allocate and distribute resources. This hierarchical system of authority between state officials and camp officials often led to many complexities. For example, in regard to the distribution of rations and medical supplies, some camp officials abused their discretionary authority.

The Chakma refugees had difficulties settling in during the initial period. The initial response from the Government of Tripura was mixed. Both refugee groups in Tripura and Tamil Nadu received rations from the government on a regular basis. Food and day-to-day needs were based on the number of refugees registered in the camps, and it was the task of the camp officials to maintain complete control over the movement of refugees living in the camps. Most of the refugees living in Tripura and Tamil Nadu were provided with daily assistance in the form of food and a few basic necessities. However, the nature of this assistance was barely enough for daily survival. As mentioned in various interviews,<sup>147</sup> rations given to refugees often reached them quite late. The refugees were provided with a daily ration consisting of 400 grams of rice per head; 50 grams of dal; 5 grams of mustard oil; 15 grams of salt; 10 grams of dry chili; dry fish worth 0.30 paise; 10 grams of gur; milk powder for children up to two years of age; cash of 0.20 paise per

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<sup>146</sup> The refugees were provided with the following benefits as per the norms prescribed by the Government of India: rations, nominal pocket allowance, clothing each year, and blankets once every three years. In addition to these benefits, medical facilities, drinking water sources, and educational facilities (nominal) were provided in each of the relief camps.

<sup>147</sup> During interviews in Thiruvannamalai, in July 5-29, 2002, refugees complained that the food supplied in the form of rice, etc. was below standard and often reached them late in the month. In some cases, refugees had to protest against these issues to the District Magistrate.

head; and financial assistance (Rs. 100) in the case of a death to pay the cost of cremation and other expenses.<sup>148</sup>

In terms of the refugees' day-to-day activities, the two refugee groups (Chakma and Tamils) were perceived differently by the states of Tripura and Tamil Nadu. Initial euphoria regarding the Tamil situation lasted until the late eighties. The internal politics of Tamil Nadu had constructed a larger role for India in the conflict. The Government of India took a "partisan" position on the on-going conflict in Sri Lanka, especially in relation to the atrocities and excesses committed by the Sri Lankan Army in LTTE-controlled areas against the common people. In this task, the Government of Tamil Nadu had an implicit role and found a "common cause in Tamil problem" in Sri Lanka. The JVP insurgency in Sri Lanka and later the Colombo riots in 1983 had "potentially destabilizing" implications for both India and Sri Lanka (Bullion 1995, 48). Accordingly, India acceded to the Sri Lankan request for "aid, helicopters, some patrolling frigates, as well as \$55 million of military assistance."<sup>149</sup> The domestic politics in Tamil Nadu influenced the Government of India to put pressure on the Government of Sri Lanka, which subsequently had an impact on the Indo-Sri Lankan policies that affected the fate of thousands of Tamil refugees living in Tamil Nadu. It was alleged that the Government of Tamil Nadu was using the camps to train future leaders of the Tamil conflict.<sup>150</sup>

Gunaratne (1993)<sup>151</sup> provides a detailed account of the role of India in consciously arming and training the Tamil refugees in the camps in Tamil Nadu. However, in the aftermath of

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<sup>148</sup> Data provided by the Relief and Rehabilitation, Agartala.

<sup>149</sup> V. P. Dutt, *India's Foreign Policy* (New Delhi: Vani Publication, 1987), 308.

<sup>150</sup> Tom Marks, *Indo-Sri Lanka Agreement of July 1987*, ed. S. Kodikara (Colombo: University of Colombo, 1992), 14.

<sup>151</sup> R. Gunaratne, *India's Intervention in Sri Lanka* (Colombo: South Asian Network on Conflict Research, 1993).

the assassination of the former Prime Minister Rajiv Gandhi, the preferential treatment of Tamil refugees underwent a change that affected the manner in which refugees were treated later in the 1990s.

The refugees in India did not have any political status. Also, the Government of India has been accused of according better treatment to the Sri Lankan Tamils than to the Chakma. The preferential treatment of the Tamil refugees soon ended after the assassination of Rajiv Gandhi in 1991. Since then, the camps in Tamil Nadu have been frequented by various levels of authorities. A special branch of the Central Investigation Bureau, called the “Q” branch,<sup>152</sup> was created at the state level in Tamil Nadu with a mandate to visit refugee camps to assess day-to-day activities. During one of the interviews<sup>153</sup> in the Thiruvannamalai camp on 15 July, 2002, members of the “Q” branch entered the interviewees’ premises and began questioning them on the nature of my discussion with them.

The system of power hierarchy was quite effective in the day-to-day functioning of the camps. Each camp had a refugee leader who was responsible for bringing grievances from the refugees to the camp officials. Each camp’s staff was comprised of the camp officer, camp supervisor, accountant, storekeeper, block-in-charge, and other contingent staff. The leader (camp officer) was responsible for maintaining the “black board” that

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<sup>152</sup> The “Q” branch was entrusted with the task of reporting on any illegal activities committed by Sri Lanka Tamils. A specialized “Q” Branch CID functions under the guidance of the Additional Director General of Police (Intelligence). This branch is a specialized wing created to monitor the activities of extremists and militants and to co-ordinate effective measures to counter their activities. The branch collects intelligence related to left-wing extremists and Sri Lankan Tamil militants.

<sup>153</sup> During this interview (July 28, 2002) the “Q” Branch officials entered the premises of the interviewee and began to question us with regard to the nature of my work, etc. After I was able to persuade the official that I was doing research for my dissertation, I was told that “working on refugees means nothing,” and “why talk to them when they have to go back.” After engaging in a conversation, the officials tried to provide their version of why “refugees are not welcomed in India” and why they should go back. The meeting lasted 15 minutes, and soon after they left, I asked my interviewees if they wanted to stop the interviews. My interviewees were quite happy to continue with their discussion and said, “these things are quite regular features in our lives.”

indicated the exact number of refugees present in the camps. This camp-in-charge<sup>154</sup> was assisted by other officials in the distribution of rations, etc. Each camp had a small medical centre, with one doctor and two nurses, and a small nursery. The nursery provided adequate nutrition and other medical necessities to new mothers and their infants.<sup>155</sup>

The camp officials were responsible for managing the refugees within the camps as well as distributing rations, clothing, etc. to the refugee families. To do their jobs efficiently, officials often undertook regular “roll-calls” twice a day, once in the morning and the other after sunset, to determine the exact number of refugees.<sup>156</sup> This made the refugees feel more like prisoners within the camps. Although they could go out after acquiring special permission from the officials, they had to return before the curfew that was assigned to each of them. Essentially, this meant that refugees were denied and discouraged any opportunities to mingle with the local population. However, in both cases, the Tamil and Chakma children were allowed to continue their education while living in exile.

Since the officials in the camps had absolute authority over the day-to-day administration of camps, the involvement of local officials was limited to crisis management. The Teshildar was the highest official at the local level of administration, and the District Magistrate (DM) was the highest at the district level. Many camps were

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<sup>154</sup> Depending on the number of refugees, officials in the camp could be reduced or increased. The total number of refugees on October 1996 in various camps was: Takumbhari had 14476; Lebachari had 2929; Pancharampara Relief camps had 8514; Karbook had 8753; Silachari had 4562; and Kathalchari had 10221 (Government of Tripura, the Chakma file).

<sup>155</sup> Most of the camps in which interviews were conducted had a very good and effective nursery facility. Young mothers were provided with additional nutrition, and infant children were given proper care for 7 to 8 months after their birth in the camps.

<sup>156</sup> In an interview in 1999, camp officials told me that they regretted the repatriation of refugees because they had lost their jobs after working in the camps for fourteen years.

located in each district, and only matters of the highest importance reached the District Magistrate. In my interview <sup>157</sup> with the DM of Thiruvannamalai, I attempted to apprise the officer of the day-to-day problems of living in the camps. In various interviews, inmates of the camps in Thiruvannamalai had talked about the corruption and “chain of bribery” accepted by some officials to register names in birth certificates. Each household (family) in the camp was comprised of family members related by blood. When children were born in the camps, officials had the arduous task of including their names in the existing list, which was mostly a ration card. Each individual living in the camp had his or her name included on a ration card belonging to the head of the family. Often, it was necessary either to include or exclude names, depending on births and deaths. In the interviews, respondents mentioned that since their quota of rations (dole) depended on the exact number of members in each household, it seemed imperative that the inclusion of names regarding births was more crucial than the exclusion of names upon death. The officials were quite reluctant to add new names to the card of an existing ration card holder.<sup>158</sup> During an interview with the Teshildar in Vellore, an official denied receiving money for adding names to ration cards. The official denied that the office would “make already poor Tamils any poorer” by asking for money to add names at the time of the birth registration. However, I received sufficient evidence to prove that officials had

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<sup>157</sup> District Magistrate, interview in July 2002. When I asked him about the nature of corruption among local officials, the DM seemed perturbed and asked for more information. However, when he seemed more interested in details like names, etc., I pointed out that most of the names could not be revealed, but the name of the person accused of receiving money could be given. The DM did not ask for any further information and stated that his office would look into the matter. He also asked the Superintendent of Police (SP), who had accompanied me to the interview, to look into the matter.

<sup>158</sup> In camps located in Abdullapuram and Gumudpundi, quite a few Tamil refugees were upset with the manner in which officials were handling this situation. They revealed during interviews (5-29 July, 2002) that in the past they had to agitate to get their “dues.” Some of these refugees had successfully agitated against the poor quality of rice provided to refugee families by refusing to receive any rice as part of the daily ration from the Government of Tamil Nadu.

asked for a sum of 100-600 rupees to add an additional name to the ration card (this could be a large sum of money for a refugee family, as few had any other source of income apart from the government dole). In this manner, birth registration remained a problem among refugee families in Tamil Nadu.

The local population<sup>159</sup> resented the continued presence of the refugees whose living standard was slightly higher than theirs (as already mentioned), especially since the refugees had continued to receive daily rations and were earning small wages from services provided to local businesses. With respect to the continued assistance from the central government over a period of time, the presence of the refugees also became a source of conflict between the state Government of Tripura and the GoI. The Government of Tripura alleged that the presence of a large refugee group was causing tension among locals. Moreover, this presence also created a demographic imbalance and environmental concerns. The steady rise in the birth rate within these camps threatened and strained state resources. The areas surrounding the five relief camps in South Tripura underwent deforestation, as the refugees were prone to felling and cutting trees for fuel. The local population also faced an acute shortage of natural resources, including firewood, wild vegetables, bamboo shoots, and wild potatoes, which constituted a primary source of livelihood for them. Moreover, the GoI had spent 13.5 million rupees on the refugees, a sum that became a source of discontent among the locals who felt marginalized and thus harboured grudges against the Chakma/ Jumma refugees. The relationship between the local Bengali population and the Chakma refugee communities became worse over time.

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<sup>159</sup> Internal communications between the Office of the District Magistrate and the Relief Commissioner (January 1994 to December 1994) indicate that evidence existed that locals increasingly resented the prolonged presence of the refugees. The Government of Tripura intimated to the Government of India that since the conditions were better in Bangladesh, the refugees should be allowed to leave, especially since the locals were quite unhappy.

The local poor population felt marginalized when refugees “*continued to receive rations.*”<sup>160</sup> The deteriorating relationship between locals and the refugees concerned officials in Tripura. With these concerns in mind, the Government of Tripura advised the Government of India that refugees “should be encouraged to repatriate.”<sup>161</sup>

In comparison to the treatment of Jumma refugees, the Sri Lankan Tamils in Tamil Nadu were received and treated well. Certain reasons account for the preferential treatment of these refugee groups. India took an active role in the conflict in Sri Lanka but played a lesser role in the CHT conflict. The Sri Lankan Tamil refugees in Tamil Nadu shared a close ethnic and cultural bond with the local Tamil population. The treatment and reception of Tamil refugees in the mid-1980s were comparatively higher than those given to those seeking refuge in late 1990s. The Tamils seeking refuge in the 1980s were victims of the pogrom against Tamils in Sri Lanka in 1983. The domestic politics in Tamil Nadu were largely responsible for pressuring the central (federal) government in Delhi to send peacekeeping forces to Sri Lanka and to play a proactive role in the domestic politics of that country. Some have argued that the initial training received by the LTTE was in Tamil Nadu.<sup>162</sup> In the beginning, Tamil refugees in Tamil Nadu were considered almost as “guests” and not refugees. However, the initial warm reception of Tamil refugees soon gave way to absolute resentment in the aftermath of the assassination of former Prime Minister Rajiv Gandhi in the early nineties. However, the situation had already begun to change with the Indian Peacekeeping Mission (IPKF) to Sri Lanka in 1987. The IPKF was held responsible for the excesses committed against

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<sup>160</sup> Local person, interview in Sabroom, June 1998.

<sup>161</sup> Based on internal communications between the Department of Relief and Rehabilitation (Government of Tripura) and the Government of India.

<sup>162</sup> See Alan Bullion, *India, Sri Lanka and the Tamil crisis, 1976-1994: An International Perspective* (London: Pinter, 1995).



Tamil civilians in Sri Lanka and for its role in retraining the LTTE. These changes in Indian policies were reflected in the treatment of Tamil refugees in Tamil Nadu.

The treatment of Chakma/ Jumma and Tamil refugees in India illustrate how non-citizens have no legal status. The Indian state did not adopt overt policies of discrimination, but there was variation in treatment of refugee groups. As I have discussed, the federal state had demarcated resources and funds toward refugee treatment but left the management to provincial levels of government; that is, the governments of Tripura and of Tamil Nadu were responsible for the day-to-day activities of refugees. But it was later that the politics of ration-distribution and socio-economic imbalance that contributed to the asylum state's policies towards repatriation. Thus, in conjunction with the politics of exclusion through the denial of status, or in some cases *partial* recognition can go a long way in determining refugee rights and repatriation in India.

### ***Repatriation Policies in India***

The interstate relations between countries of asylum and of origin determined the direction of the repatriation of refugees. In addition, other factors such as a prolonged stay in exile (and its impact on domestic politics), or in rare occasions, a decrease in ethnic affinity, may compel states to send refugees back to their countries of origin at a most inopportune time. The socio-demographic changes as a result of refugee presence can also impact upon the asylum-state's decision to repatriate refugees. But ideally the decision to repatriate to the country of origin should be based on an informed decision made by the refugee group. The repatriates should therefore return home as a result of a balanced decision, which depends on their personal aspirations and knowledge of the changed conditions/ situations in their home country. Akol (1987) identifies three factors

involved in the decision of refugees to return to their country of origin: 1) the existing nature of settlement in the country of asylum; 2) the level of socio-economic development achieved by refugees' vis-à-vis conditions prevalent in their homeland; and 3) ethnic ties with the host population. These conditions can impact upon refugee repatriation to countries of origin. Though the first three factors may impact upon asylum state's choices of repatriation, the refugees tend to agree with repatriation only as a result of their lack of definitive status and rights. But based on various interviews conducted in Tamil Nadu on Tamil refugees, there were few who wanted to return; rather, they "came around to the idea"<sup>163</sup> of eventual repatriation to Sri Lanka. This line of analysis provides credibility to refugees as agents capable of making decisions based on consent and the information provided by the asylum state. But such cases are limited as most refugees in the country of asylum agree to repatriate when the asylum state adopts various pressure tactics such as withholding rations and restricting refugee movement. Moreover, since India is not a signatory to any of the Conventions Related to the Status of Refugees, repatriation policies are determined almost unilaterally. The involvement of the UNHCR is rather limited, and with the exception of some of the Tamil refugees, its role has been negligible. There have been instances when refugees have had little or no say in the matter of "voluntary repatriation," a process that would need to be validated by the UNHCR.

Ideally, repatriation begins with rounds of discussion between countries of origin and asylum, and in some cases, refugees are included in the discussion. The method involved in repatriation can involve the refugees, depending on the nature of the relationship between the countries of origin and of asylum. For instance, the repatriation of Jumma

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<sup>163</sup> Interviews conducted in Gumudpundi camp in Tamil Nadu, July 2002.

refugees involved various rounds of negotiation between the country of origin (Bangladesh) and that of asylum (India). Based on the bilateral relations between India and Bangladesh, the Jumma were repatriated after six rounds of talks. In the 1990s, India and Bangladesh shared antagonistic bilateral relations, which were reflected in the Government of Bangladesh's decision to deny the presence of Chakma refugees in India. The Prime Minister of Bangladesh, Khaleda Zia, refused to acknowledge the presence of the Chakma on Indian soil (accepting the presence of Chakma refugees in India would be tantamount to assuming responsibility for various massacres in CHT). However, it was later that the Indian government allowed the Bangladeshi delegations to visit the Tripura camps to assess conditions prior to a repatriation process. In 1998, the Chakma refugees from Tripura were repatriated in six batches in accordance with the terms and conditions of the Peace Treaty signed between the Government of Bangladesh and the militant wing of the Chakma representative Parbattya Chattagram Jana Sangha Samiti (PCJSS).<sup>164</sup> Some of the conditions of the Treaty were to restore the land and the complete de-militarization of the CHT region. Since 1992, the Government of Tripura had been attempting to pressure the federal government to repatriate the Chakma refugees from Tripura. Finally, in 1994, the matter was resolved through bilateral negotiations between the governments of India and Bangladesh. However, this resolution had little bearing on the ongoing conflict between the Bangladesh Army and Shanti Bahini of PCJSS in the CHT region as atrocities and massacres continued unabated against the Jumma people. Accordingly, in

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<sup>164</sup> The most salient features of the 1997 Accord/ Treaty are: the decommissioning and deposit of arms by JSS fighters; the rehabilitation of the ex-combatants; the rehabilitation of the international refugees and internally displaced people; the dismantling of non-permanent military camps and the return of the soldiers to their regular barracks within cantonments and other specified permanent garrisons; self-government through district and regional councils and indigenous institutions; land and resource rights; and the recognition of the cultural identity of the indigenous people and their laws and customs.

the first stage of the repatriation, 2,137 refugees were repatriated from the Silachari camp in Tripura. In the second stage, 3,345 persons were repatriated from the Silachari, Karbook, Pancharampara, Takumbari, Kathalchari, and Lebachari camps. In the third phase, 6,701 persons were repatriated from the Takumbari, Pancharampara, Lebachara, Karbook, Silachari, and Kathalchari camps. In the fourth and fifth stages, 13,023 persons and 36,624 persons respectively were repatriated.<sup>165</sup> However, in the midst of the repatriation process, the Government of Tripura and the Government of India were accused of violating the principles of *non-refoulement*. Similar incidents occurred in the case of the Tamil refugees from Tamil Nadu when the Government of Tamil Nadu exerted pressure on refugees through a suspension of rations and by other means to compel them to repatriate “voluntarily.”

The bilateral negotiations between the asylum state and the country of origin involve the refugee groups directly and together constitute the third piece of the puzzle. Although refugees may form their own group at the negotiating table, they may not have access to some vital information. In this context, the role of a neutral third party, the UNHCR or ICRC, would be essential to determine first, the voluntariness of the repatriation and second, the sincerity of the rehabilitation packages for returnees.

During the repatriation, allegations were raised that the Government of India had committed *refoulement*.<sup>166</sup> Also, the Government of Tripura had threatened to “stop

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<sup>165</sup> The Chakma File, Government of Tripura.

<sup>166</sup> The South Asia Human Rights Commission (SAHRC), in a letter sent to the NHRC (which was later sent to the Chief Secretary of the Government of Tripura), suggested that India had an intention of committing *refoulement*. The SAHRC had alleged, “invisible duress being brought to bear upon the Jumma refugee leadership is clear from the fact that on 1 March, 1997, Mr. Upendra Lal Chakma, President of the CHTs Jumma Refugee Welfare Association stated they (the Jumma refugees) would return home if the entire process of repatriation and rehabilitation were conducted under the supervision of the UNHCR and the International Red Cross. The Jumma refugee leadership, it is understood, is being pressurized to agree to a repatriation process ostensibly without the involvement of an impartial party like the ICRC. This is

supply of food” to induce/ encourage refugees to repatriate. Similar allegations have been made against the Government of Tamil Nadu during the mid-1990s when the National Human Rights Commission and the UNHCR received complaints from both the Chakma and Tamil refugees. Despite the coercive means adopted by some officials engaged in the process of the repatriation of refugees from Tripura, some were reluctant to leave the country of asylum. During the third phase<sup>167</sup> of the repatriation of the Chakma refugees, it was evident that the terms and conditions of the rehabilitation package as promised by the Government of Bangladesh were incomplete. Under these circumstances, the refugees’ leader Upendra Lal Chakma,<sup>168</sup> President of the CHT Refugee Welfare Association, refused to allow the third batch to be repatriated.

The National Human Rights Commission received complaints regarding the cessation of food items, drinking water, death allowances, and the like.<sup>169</sup> At this time, some Indian organisations mobilized against the forcible repatriation of refugees, including the Tamils. The South Asia Human Rights Commission (SAHRDC) appealed to the Government of Tamil Nadu and the UNHCR to look into the matter.<sup>170</sup> The UNHCR was given the role of

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clear evidence of the undue pressure being brought to bear upon the Jumma refugee leadership.” The SAHRC filed the complaint on March 7, 1997, and the repatriation was announced on March 9, 1997. The SAHRC was informed later by the Jumma Refugee Leadership that they would be compelled to agree to the repatriation process without the involvement of the UNHCR and the ICRC.

<sup>167</sup> In the 1<sup>st</sup> and 2<sup>nd</sup> phases of repatriation, a total number of 1,028 families (5,198 persons) were repatriated to Bangladesh.

<sup>168</sup> Upendra Lal Chakma, in a letter dated October 5, 1994, to the District Magistrate, South Tripura, Government of Tripura, stated that the repatriation of the 1<sup>st</sup> and 2<sup>nd</sup> batch of refugees had “proved futile and a gimmick” and thus “further repatriation of the Jumma refugees be stopped till peaceful political solutions of the CHT crisis and 16 points benefits commitments are fulfilled.” Mr. Upendra Lal Chakma further stated that nearly 53 families were not given back their homestead and that land-grabbing by non-tribal people was still a problem; moreover, families were not allowed to return to their original place of displacement.

<sup>169</sup> On October 30, 1996, the National Human Rights Commission received a letter of complaint from Mr. Ravi Nair, the South Asia Human Rights Documentation Centre, regarding issues of arrears in the ration dole, drinking water, and the like. In a reply sent on December 9, 1996, the Joint Secretary of the Dept. of R and R stated that these matters would be discussed with officials and adequate action would be undertaken.

<sup>170</sup> In a letter dated April 6, 1994, Mr. Shamsul Bari, the Chief of Mission of the UNHCR received a formal letter of complaint consisting of a petition signed by 313 family heads of the 1,185 refugees living in the

verifying the *voluntariness* of the repatriation process. As a result, the UNHCR had a mandate to seek the “consent” of refugees while agreeing to repatriate. According to the Tamil refugees,<sup>171</sup> some were disappointed once again with the UNHCR.

Some factors may work positively in favour of refugees seeking asylum, while others may work against them. Ethnic affinity between the refugee group and the host-population definitely propels refugees to asylum in locations where they share a similar language, kinship, culture, etc. In India, refugees naturally gravitated to locations of shared interest, culture, and language. For example, Tamil Nadu was a natural choice for Tamils from Sri Lanka as opposed to Maharashtra. However, over time the ethnic affinity depreciated to give into conditions of repatriation. Moreover, the close relations shared between Sri Lankan Tamils and the Tamil population in Tamil Nadu did pave the way for an active Indian interest in the ethnic conflict in Sri Lanka. However, the same cannot be said in regard to the Chakma refugees in Assam, Tripura, or Arunachal Pradesh. In the mid-1980s, the Chakma refugees sought asylum in Tripura as a result of shared border with Bangladesh. Incidentally, the people of Tripura and the Chakma had the Bengali language as a common factor, although the ethnic affinity in this instance did not play a predominant role. As discussed earlier, along with the ethnic factor, the bilateral relations between the countries of origin and asylum may constitute a factor in determining the future of refugees.

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Lena Vilakku camps of forcible repatriation. In the petition, the signatories attested to the harassment and intimidation of the Teshildar, the Regular Revenue Inspector who was forcing refugees to repatriate to Sri Lanka. As a method of persuasion, the Inspector threatened to stop the ration dole, etc.

<sup>171</sup> During interviews in Thiruvannamalai, refugees asserted that the UNHCR had provided false documents and information to persuade refugees to repatriate “voluntarily” to Sri Lanka. In their discussions and interviews, refugees provided copies of such documents (provided by the UNHCR) that had failed to indicate “the nature of positive changes” and which had been used to accelerate or facilitate the massive repatriation of Tamil refugees from India.

The question of repatriation remained intertwined with the lack of refugee status in the country of asylum. Like most postcolonial societies, countries in South Asia accorded citizenship on the grounds of blood or descent only. In India, those who fall into the category of non-citizen are the most disadvantaged. Unlike in developed countries, they do not fit into the framework of migrants. Although India has witnessed massive population movements since 1947, and while most of the refugees from the 1947 and 1971 partitions were accorded citizenship, those who entered after 1968 have not been accorded any political, social, or economic status. Interestingly, this lack of rights applies to refugees who are registered and living in camps as opposed to non-camp, unregistered refugees. Some refugees are accorded preferential treatment (minus political rights) and are viewed more generously compared to others.

The lack of official refugee status and its associated rights make it easier for asylum and host states to decide on repatriation policies, independently of the preferences of refugees. Status would determine a certain degree of rights to refugees that would prevent the asylum state from determining arbitrary policies of repatriation with the country of origin. However, another factor exists that has influenced decisions about refugees to a lesser extent (in reality, this factor should have maximum influence): the changes prevailing in the country of origin. Since most refugees seek refuge in the South Asia region because of domestic conflict, the resolution of such conflicts would entail a massive repatriation. In the cases discussed above, India played a prominent role in both CHT and Sri Lanka conflicts, though to a lesser degree in CHT, as India did not enjoy good relations with the Bangladesh Nationalist Party in comparison to their relations with Sri Lanka. The Indian Peacekeeping Forces sent to Sri Lanka were instrumental in

bringing back a ship “filled with Tamil returnees.”<sup>172</sup> The methods of repatriation in India have been bilaterally arranged between the countries of origin and of asylum, without any third party involvement and no interference after repatriation, even though most of these refugees have returned back to the asylum state when rehabilitation failed to accommodate them in a satisfactory manner in their countries of origin.

In this chapter I have investigated the question of refugee repatriation from the perspective of India, and I have analyzed the role of the Indian state in refugee repatriation. The Indian state determined refugee position and later repatriation within the framework of politics of exclusion. The state-centric views of rights on non-citizens had a lot to do with how the Indian state decided to treat refugees. At one level, the state denied formal rights; it also reinforced refugee treatment and repatriation through arbitrary policies. While it denied status to groups, it reinforced their displaced identity through forced encampment of refugees. Repatriation of Tamil and Jumma refugees illustrates how state-centric views of rights in the Indian state were instrumental in determining the trajectory of the return process.

### ***Conclusion***

In this chapter, I discuss the rights in exile of a few prominent refugee groups in India. I analyze their status in the historical trajectory of postcolonial state-formation and citizenship rights. I argue that since the Indian state does not accord formal status to refugees, neither does it accord any kind of status that would entitle them rights against arbitrariness of refugee treatment and repatriation. I point out that the asylum state provided citizenship rights to territorially demarcated people based on residence and

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<sup>172</sup> Interview in Mannar, Sri Lanka, June 2002.



nationality, and most of these citizenship rights were interpreted from above rather than being instigated from below to accommodate the concerns of refugees. I argue that the state policies of India failed to determine the status of non-citizens, dubbing them as “aliens.” Despite adequate provisions (in spirit and intent) stipulated within international refugee law, India has taken the position that international treaties, covenants, conventions, and agreements cannot become part of the domestic law of India. The Supreme Court has stated through a number of decisions on the subject<sup>173</sup> that international conventional law must go through the process of transformation in the municipal law to become part of the internal law of the country. Moreover, courts in India can apply international law but only in the absence of conflict of interest between the provisions of international law and domestic law. In the case of such a situation, the provisions of international law sought to be applied do not contravene the spirit of the Constitution and national legislation. Furthermore, in situations of conflict, the Supreme Court has clearly stipulated that domestic law must prevail over international treaty law. The strict interpretation and reiteration of domestic law over international law (more specifically related to refugee rights) have compromised issues of refugee protection and rights in India.

Like most pluralist postcolonial societies, India pursued state-building with a strong state at the centre, and unlike Sri Lanka and Bangladesh, accommodated *most* pluralist tendencies, with the exception of the interests of refugee groups. No precedent exists to give refugees rights in asylum countries, with the exception of a few basic fundamental rights enjoyed equally by citizens and non-citizens. However, refugees are often unaware

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<sup>173</sup> For example, the Gramophone Company of India v. Birendra Bahadur Pandey AIR 1984SC 667; Civil Rights Vigilance Committee, SLRC College of Law, Bangalore v. Union of India AIR 1983 Knt.85; Jolly George Verghese v. Bank of Cochin AIR 1980 SC 470.

of their rights as aliens/ foreigners in the country of asylum and are often unable to avail of these privileges. The gap between the rights of refugees being protected in theory and what actually happens in practice needs to be explored further. Also, the scope of special provisions protecting refugee rights is only in part due to the lack of official recognition of refugees in the country of asylum. If constitutional safeguards cannot be enacted to provide protection,<sup>174</sup> it is imperative to have well-defined legislation to protect the basic rights of refugees.

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<sup>174</sup> On February 26, 2001, the Supreme Court expressed concern regarding the presence of illegal Bangladeshi migrants in India. The court explicitly stated that they were a threat both to the economy and to security of the country.

## CHAPTER 4

### *Political Strategies of Accommodation and Peace Process in Sri Lanka: A Case of Tamil Refugees*

#### *Introduction*

The “Sinhala Only” movement and centralization of power in the office of the President under the unitary system of government led to Sinhalese-Tamil<sup>175</sup> polarization along ethnic lines. These changes were part of the postcolonial state policies of “overt majoritarianism” (Oberst 1988, 175-94), which favoured the majority over its minorities. The conflict in Sri Lanka encompasses an entire gamut of problems related to language, a historical contestation over the former glory of homeland, and prolonged separatist agitations, which have larger implications for Tamil returnee-refugees from India. The initial emphasis on pluralist Sri Lankan polity and society gradually led to demands of “defensive nationalism,” which secured the supremacy of Buddhism and the Sinhala language over the minority Tamil culture, yet Sri Lanka is a multi-ethnic, multi-religious, and multi-cultural society.<sup>176</sup>

In this chapter, the ethnographic data provides the basis for my assessment of the politics of the return of Tamil refugees from India after the ceasefire in Sri Lanka, which permits the analysis of the scope of integration in the post-peace and post-repatriation framework. The returnee-refugees were repatriated on the basis of bilateral talks between

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<sup>175</sup> The Sinhalese are concentrated in the southern part of Sri Lanka, the Tamils are mostly located in the northern and eastern parts of the island, and the Tamils of Indian origin are concentrated in the central province of the island. Muslims constitute a small part of the minority groups and are located mainly in the eastern part of the island.

<sup>176</sup> The population of the island is an estimated 18 million (with the exclusion of demographic data from the north and eastern part of Sri Lanka); 77.2 percent are Sinhalese, 6.1 percent are Sri Lankan Tamils, 4.8 percent are Tamils of Indian origin, 8.9 percent are Muslims, and 3.0 percent belong to other ethnic groups (Burgher, Chetty etc). For details, see <http://www.statistics.gov.lk>

the governments of India and Sri Lanka during the mid-eighties and early nineties between the Liberation of the Tamil Tigers Eelam (LTTE) and the Sri Lanka Army (SLA). Refugees have been intermittently repatriated—both officially and unofficially—as part of the repatriation process instigated by the Government of India, which depended on the suspension of violence in the ethnic conflict in Sri Lanka.

In this chapter I investigate the second research question of the dissertation: Why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states? The findings from Vavuniya and Mannar suggest that the refugees’ desire to repatriate “home” remained implicit in the decision-making process (apparent in the absence of their entitlement and rights while in exile; also, their preference was never taken into consideration)<sup>177</sup> and was external to the politics of repatriation as determined by the countries of asylum and origin: India and Sri Lanka, respectively. Also, the method of resolving Tamil marginalization in Sri Lanka has ramifications for Tamil refugees from India and their possible reconstruction. Despite numerous rounds of peace talks and ceasefire agreements between the Government of Sri Lanka and LTTE, the issue of housing of Tamil refugees from India and restoring them to their “home” remains unresolved. This is an important link because most refugees repatriated from India during the cessation of hostilities needed to permanently return “home;” as a consequence, a permanent solution to the ethnic problem in Sri Lanka was also required. While the agreements (ceasefire proposals of the Government of Sri Lanka, followed by the LTTE) provided power-sharing mechanisms, they did not deal with the re-integration of Tamil

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<sup>177</sup> Interviews conducted in Vavuniya and Mannar indicate that during refugees’ stay in exile, they already had pre-existing ideas of return. Some viewed that repatriation would occur only when the asylum state determined the process.

returnee-refugees from India. The peace process failed to make provisions for the re-integration, reconstruction, and accommodation of Tamil refugees in Sri Lanka.

Despite India's reluctance to acknowledge Tamil refugees politically, repatriation remained the only method to indicate the end of conflict in Sri Lanka. Refugees were repatriated as a result of the suspension of violence, which made the beginning of the ceasefire and peace talks an integral part of the integration process in the post-repatriation context. Therefore, the political outcome of the ongoing ethnic conflict in Sri Lanka impacts upon the reconstruction of Tamil returnees from India. Sri Lanka has witnessed varying degrees of peace initiatives, ranging from peace talks, to negotiation, to treaty and ceasefire, but none have led to the integration of Tamil returnees from India. The Tamil returnees from the mid-eighties who accompanied the Indian Peacekeeping Forces (IPKF) continue to live in transit camps, unable to return to their place of origin.

Examining the testimony of returnee-refugees, I assert that there is a nexus between the motivation of asylum states to repatriate refugees, which is tied to the refugees' lack of status in the asylum state, and the notion of "home" as a place to return to, which is linked to finding an amicable outcome to the conflict in Sri Lanka. The common threads among the cases in this chapter were, first, that refugees were repatriated based on interstate relations; second, the prospect of reintegration of refugees into "home" seemed problematic; and third, refugees turned to "home" after they realised that they had little choice in the matter.

Historically, India has remained a close ally to the Government of Sri Lanka, but overtly, India's involvement in Sri Lanka's ethnic conflict has lessened since the assassination of the former Prime Minister of India, Rajiv Gandhi, in 1991, while the

Tamil problem has found common cause with people of the southern state of India, Tamil Nadu. At the same time, the issue of refugee repatriation is also determined based on bilateral relations between India and Sri Lanka. Until recently, India had shied away from the conflict, and since the assassination, Indo-Lankan relations have changed from an “open-door” policy of receiving refugees to a “closed-door” policy, which has affected the repatriation of Tamils to Sri Lanka.

In this chapter, I argue that India has continued to repatriate Tamils during the period of peace that has accompanied “good bilateral” relations between India and Sri Lanka and despite India’s closed-door policy to refugees. Refugee repatriation occurs primarily during good bilateral relations rather than during bad bilateral relations. The initial repatriation occurred in the mid-eighties when Indian peacekeeping forces were sent to Sri Lanka to resolve the conflict, which resulted in human parceling or the “forced repatriation” of Tamil refugees as a symbol of good relations between India and Sri Lanka. The repatriation of Tamil refugees coincided with the beginning of various ceasefires (in the eighties, in the nineties, and in 2002) in Sri Lanka that promised to resolve the ethnic conflict “successfully” but failed to address the question of returnee accommodation.

To further investigate components of the second research question, I analyze the scope of re-integration of returnees in relation to their status and policies in the countries of origin. I conceptualize “home” drawn from the anthropological literature, especially Malkki and Hammond, as a place where refugees wish to return after repatriation, i.e., a place in which to resume lives of dignity and safety. I agree with scholars who maintain that notions “home” may hold different meanings to refugees, especially during exile. In

exile, refugees feel compelled to repatriate based on their “natural” desire to belong to the land they were born in rather than making a new homeland through emplacement in their country of asylum. I assess the determinants of refugees’ decisions to repatriate based on notions of “home” (as perceived by refugees) and later contrast it to how a refugee’s location of stay in a country of origin influences these notions. I argue that, for various reasons, refugees have been repatriated to their country of origin but are yet to be rehabilitated. Sri Lanka’s inability to accommodate the refugees adequately has led to the perpetuation of another refugee-like existence, especially in the aftermath of the ceasefire in Sri Lanka. The continuation of ethnic conflict and intermittent peace initiatives in Sri Lanka have led to post-repatriation problems of integration among Tamil returnees. In this chapter, I distinguish between the act of repatriation and the true return to the “exact place of displacement/ place of habitat.” This theme is relevant for refugees who can actually return “home,” as home is appealing in the sense that one may belong on the basis of an “evocative mirage a designation of a highly fictitious character.”<sup>178</sup>

Furthermore, I argue that half of the Tamil refugees who have been repatriated are unable to return “home,” or to the exact location of displacement and the majority of these refugees have already shown an inclination to enter India in the near future.<sup>179</sup>

This chapter is divided broadly into two sections. In part one, I discuss the social and political context of the Tamil<sup>180</sup> problem within Sri Lanka and briefly outline the Tamil

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<sup>178</sup> See D. Warner, “Voluntary Repatriation and the Meaning of Return to Home: A Critique of Liberal Mathematics,” *Journal of Refugee Studies* 7 (1994): 160-174.

<sup>179</sup> The UNHCR estimates that as many as 50 to 60 per cent of today’s refugees are born in exile; *Refugee* 134 (2000): 7. Note that the wording of the right concerned in the 1966 Covenant on Civil and Political Rights explicitly refers to entry rather than return: “It includes not only the right to return after having left one’s own country; it may also entitle a person to come to the country for the first time if he or she was born outside the country.” Human Rights Committee, General Comments 27 (Freedom of Movement, Art 12) UN doc. CCPR/C/21/Rev.1/ Add.9 (1999) para. 19.

<sup>180</sup> The Tamils in Sri Lanka are not a homogenous category. The Sri Lankan Tamils can be sub-divided into

alienation, political persecution, and historical background for the policy creation that led to the armed struggle in Sri Lanka by the Tamils. I assert that unless the Tamil question is successfully resolved, the possibility of returnees returning “home” would remain unachievable. In the second half of the chapter, I analyze the testimonies of Tamil returnees in relation to the peace process, “home,” and the reconstruction to assess the accommodation strategies of Tamil-returnees as “citizens” in Sri Lanka, especially in a post-peace context. Thus, I examine how peace initiatives facilitate the prospects of the integration of returnees in their country of origin, but not in “home.”<sup>181</sup> I further explore why refugees seek to repatriate in light of the uncertainty of peace and the hostile relations between the Sinhalese and Tamils in Sri Lanka.

### ***Competing Narratives and Claims of Tamil “Homeland” in Sri Lanka***

There have been historical claims and counter-claims about the precise cause of the Sinhala-Tamil problem in Sri Lanka. The political consciousness of Tamil identity in Sri Lanka vis-à-vis Sinhalese identity was based on apparent differences in language, religion, and culture. These notions of differences can be traced back to the colonial period, especially in relation to ethnicity and cultural characteristics, which became more politicized and were selectively articulated in the postcolonial context. The Tamils took recourse in history as a means to establish claims and demands on their specific heritage. Post-independence Ceylon had some of the classic elements of “Thamil” identity, which were further solidified by issues of territoriality. Tamils tried to confirm their identity by other means, such as religion, culture, literacy, and social norms. Though identity based

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three categories: the Jaffna Tamils, the Batticaloa Tamils, and the Colombo Tamils.

<sup>181</sup> I have conceptualized “home” based on relevant literature, and I draw linkages with refugees’ idea of home and as indicated in the literature.



on language, religion, and culture can contribute to a community's legitimacy, in this case, it could not confer the legitimacy in itself.<sup>182</sup> Their demands changed to calls for equality or "balances," representation, and special rights within the constitutional framework. The Tamils in Sri Lanka developed the need to concretize their identity as a collective based on language, culture, and territory; this remained the cause of the ongoing ethnic conflict. The Sinhalese claim was based on the Vijayan myth and the Legend of the Buddha, which viewed Sri Lanka as their homeland; by contrast, the Ceylon Tamils looked toward Tamil Nadu (India) as home. These claims were reasserted based on the ancient Sinhalese name of Sri Lanka, as "Sihadipa:" the island of the Sinhalese.<sup>183</sup> Similarly, the Tamils asserted their version of historical beliefs, which proclaimed that they were the original "co-indigenous" settlers, prior to the arrival of the Sinhalese population in Sri Lanka. Furthermore, the Sinhalese sought to counteract the neglect of their language and religion that had occurred as a result of four centuries of Western rule,<sup>184</sup> so they attempted to reverse the parity. Over time, such constant claims and counter-claims on history, language, and historical traditions have led to confrontation between the two main communities on the island. In postcolonial Ceylon/Sri Lanka, the dominant culture reversed the balance and initiated active policies of

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<sup>182</sup> Dagmar-Hellman Rajanayagam, "Tamil and the Meaning of History," in *The Sri Lankan Tamils, Ethnicity and Identity*, ed. Manogaran and Pfaffenberger (Colorado: Westview, 1994), 75.

<sup>183</sup> A. J. Wilson, "Sri Lanka: Ethnic Strife and the Politics of Space," in *The Territorial Management of Ethnic Conflict*, ed. Coakley John (Oregon: Frank Cass, 2003), 177.

<sup>184</sup> Portuguese (1506-1658), Dutch (1658-1796), and British (1796-1948). The Ceylon Tamils traditionally enjoyed certain rights under the communal method of representation provided in the pre-1931 colonial legislature. Universal adult suffrage was granted under Britain in 1931; it provided a partial self-governing system of constitutional reforms. Under the Donoughmore Constitution in 1931, the communal means of representation was changed to territorial; this did not affect the Ceylon Tamils because they were safeguarded by constitutional protection that prevented any discriminatory legislation. Furthermore, the governor had a reserve of powers, including the right of disallowance. Later the Soulbury Constitution of 1947 completed the process of vesting conservative leadership with complete autonomy. The Reform Commission provided a compromise on the distribution of seats between Sinhala majority and the ethnic minority, wherein the Ceylon Tamils demanded 50-50 representations in respect to the number of seats between the Sinhala and the combined ethnic minorities.

marginalization, which completely alienated the Tamil minority. The lack of political acceptance and improper political accommodation strategies pushed the Tamils into an ethnic conflict of “homeland” that led to further waves of refugee flow to India. In the following section, I set out some of the basic trends in ethnic conflict and its subsequent impact on Tamil population. There are five contentious issues<sup>185</sup> between the Sinhalese and the Tamils in Sri Lanka: the devolution of power to regional centres, language rights, employment opportunities, university admission policy, irrigation policy, and access to state land.<sup>186</sup> In Sri Lanka, the Sinhalese-majority asserted predominance over the minority-Tamils in a number of ways. The first step was through the reassertion of the Sinhalese-Buddhist way of life with constitutional privileges that protected the Sinhalese language and religion. The Sinhala language was proclaimed the only official language of Sri Lanka, replacing the colonial English language. The “Sinhala Only” legislation in 1956 (Kearney 1956) further reduced minority groups to second-class citizens and accentuated the tension between the Tamil and Sinhalese communities.

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<sup>185</sup> In addition to the language issue, there were other contentious issues: changes in university admission policy contributed greatly to the deterioration of ethnic relations, which led to the radicalization of politics in the Tamil areas in the north and east of the island. In 1970, Tamils, who constituted no more than an eighth of the island’s population, gained 35 percent of admissions to the science-based faculties; in Engineering and Medicine, it was as high as 40 percent (de Silva, “To Restore Peace to Sri Lanka’s Fractured Polity”, in <http://www.peaceinsrilanka.org>). The United Front coalition led by Sirimavo Bandaranaike introduced a fundamental change by instituting a system of standardization of marks by language media at the university entrance examinations. This measure put the Tamils in a disadvantaged position, as they had to obtain much higher aggregate of marks to enter any university level—for medical, science etc—than the Sinhalese. Thereafter, a district quota system was introduced that gave equal representation to students in rural areas. The Tamils viewed these measures as both discriminatory and deliberate attempts to prevent them from achieving their goals. However, these measures were reversed in the late 1970s and early 1980s, to a more equitable university admission system, with a mixture of both district quota and affirmative action for rural populations: Tamil, Sinhalese, and Muslims. The Tamils’ share in courses was reduced from 35 percent to 25 percent in 1978-1979, while the Sinhalese’s increased from 75.4 percent in 1974 to over 80 percent thereafter (Wilson 2003, 192). Another point of contention was the distribution of state-owned land among landless peasants. Tamils have long felt that the Sri Lankan state has used and privileged the Sinhalese in land distribution as well as recruitment to military and bureaucracy in order to change the demographic pattern in the eastern provinces on the island.

<sup>186</sup> K. M. de Silva, *Sri Lanka: Ethnic Conflict, Management and Resolution* (Kandy: International Centre for Ethnic Studies, 1996), 11.

Conversely, the Tamil “reactive” nationalism emerged as a reaction to the hegemonic Buddhist-Sinhalese nationalism in Sri Lanka. With the ascendance of Buddhist-Sinhalese nationalism, the demands for equality in political representation changed to the creation of a separate Tamil Eelam (state). During the mid-fifties, Tamils chiefly sought power-sharing political mechanisms rather than separatist conflict. The 1956 election can be considered the benchmark for Sinhalese and Tamil relations in post-independence Sri Lanka when ethnicity emerged as an effective tool for political mobilization. The Sinhalese and Tamil communities were faced with uncertainties of political changes within Sri Lanka, while the communal identity and distinctiveness of the Sinhala language and religion were advanced over the Tamil identity. The political campaign began with reclaiming the Sinhala-Buddhist identity and promoting the Sinhala language.<sup>187</sup> The politicization of Tamils in Sri Lanka occurred under these circumstances. Initially, these movements<sup>188</sup> were motivated by the aim of reaching equitable distribution, but the hardliners ultimately prevented and neutralized the “bulwark against majoritarianism” of balanced representation and special rights, as stipulated within the Constitution of Ceylon/ Sri Lanka.

Capitalizing on fears of “powerlessness,” the Federal Party seized the opportunity to counter Sinhalese aggression under the leadership of S. J. V. Chelvanayakam (Sahadevan and Devotta 2006). Chelvanayakam sought to create a “political movement of autonomy” during 1949-72, which was later transformed into a desire to secure the traditional

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<sup>187</sup> Elizabeth Nissan and R.L. Stirrat, “The Generation of Communal Identity,” in *Sri Lanka: History and Roots of Conflict*, ed. Jonathan Spencer (London: Routledge, 1990), 35.

<sup>188</sup> See K. N. O. Dharmadasa *Language, Religion, and Ethnic Assertiveness: The Growth of Sinhalese Nationalism in Sri Lanka* (Ann Arbor: Michigan University, 1992), 164. Dharmadasa argues that Bandaranaike forged links with rural Sri Lanka by utilizing the mobilization potential through adhering to an “idea of religio-cultural nationalism,” which paved the way for acrimonious relations between the majority Sinhalese and minority Tamil communities.

homeland of the Tamil people. However, the political parties<sup>189</sup> were interested in a political solution within the Constitution to secure the Tamil heritage as a distinct community based on language and religion. The demand of balanced representation in the legislature made by the All Ceylon Tamil Congress<sup>190</sup> (ACTC) in the 1930s corresponded to minority fears of a majoritarian democracy. The “fifty-fifty demands” represented the effort to bring legislative equality through representation in parliament and to enact Section 29 (as discussed in previous chapter) in order to protect minorities from discriminatory treatment. Sri Lanka’s first constitution included provisions to protect minority interests: Section 29(2) proclaimed the equality of all religions. The provisions in Section 29 were meant to protect minorities and provided a political barrier against majority interests. However, the two Republican Constitutions of 1972 and 1978 weighed heavily in the favour of the majority community. The 1972 Constitution raised the position of Buddhism as a religion to a new height, which was a turning point in Sri Lanka’s ethnic relations. However, de Silva asserted that Buddhism was not made the state religion but had merely been given the “foremost place” (Edrisinha 1999, 176). In a similar vein, the 1978 Constitution further entrenched the alienation of minorities as Buddhism was given the foremost position constitutionally; thus was further emphasized in the constitutional reforms of 1995 since provisions were included to retain “Buddhist primacy.”

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<sup>189</sup> Wilson (1989: 37) asserts the formation of Sri Lanka Freedom Party (SLFP) in 1951 by S.W.R.D. Bandaranaike represented the nationalist Sinhala-Buddhist interest, which was the turning point in Sri Lankan history. The SLFP was a centrist party in comparison to the United National Party. On the extreme left were the Marxist parties. Initially, the Marxist groups stayed away from the centrist ideology of Sinhala nationalism, but later, a splinter group of the Marxist faction “abandoned its liberal stance for language.”

<sup>190</sup> The All-Ceylon Tamil Congress (ACTC) represented Tamil interests from 1944 to 1949, and later the Federal Party (FP) led the Ceylon Tamils from 1956 to 1983. After 1972, the FP entered into united fronts and other groups to assume the name of Tamil United Front (TUF) and the Tamil United Liberation Front (TULF). The United National Party (UNP), formed in 1946-47, was mostly conservative on economic issues, as opposed to its SLFP counterpart.

The Sinhalese nationalists opposed sharing power with the Tamil community and feared the division of the country to accommodate Tamil demands. Accommodation strategies made several attempts to address the devolution of power to the Tamil community and to recognize the Tamil language; these included the Bandaranaike-Chelvanayakam Pact (B-C) in 1956, and an agreement between Sri Lankan Prime Minister, S.W.R.D. Bandaranaike (SLFP), and the leader of the Tamil Federal Party (FP), S. Chelvanayakam in 1957.<sup>191</sup> However, these remained an unfulfilled dream. There were also provisions to elect Regional Councils with jurisdiction on issues related to colonization, agriculture, land, and education to Tamils. Bandaranaike attempted to offset the rigor of the “Sinhala Only” with minimum concessions to the Tamil community through measures to recognize the Tamil Language through the enactment of the *Special Provisions Act* in 1958. However, the B-C<sup>192</sup> pact fell short of the real demands for a federal constitution, regional autonomy, and the abolishment of the “Sinhala Only” supremacy. Both Bandaranaike (1957) and Dudley Senanayake (1965) met some of the Federal Party demands for a “minimum demand of decentralization” through their respective creation of Regional Council and District Councils. The complete acceptance of these proposals, however, created opportunities to re-write history. The proposals came to be viewed as missed opportunities in the history of Sri Lanka to accommodate legitimate Tamil concerns as advocated by FP’s theme of “territory, land and language.” This was reflected in the ethnic conflict, which soon changed focus from representation to

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<sup>191</sup> Alan J. Bullion, *India, Sri Lanka and the Tamil Crisis 1976-1994: An International Perspective* (London: Pinter, 1995), 19.

<sup>192</sup> Bandaranaike had promised the creation of Regional Councils whereby the Northern Province was to form one regional area while the Eastern Province was to be divided into two or more regional areas. The Councils were to have a certain devolution of power over agriculture, cooperatives, land and land development, colonization, education, health, industries, etc.

the creation of a homeland based on “original habitat.” De Silva (1998) and others have argued that the political changes between 1956 and 1978 resulted from political necessity and a realistic adjustment to a “life in a plural society,” as well as the attempt to concede the official recognition of equality between the Tamil and Sinhala languages. In 1966, the United National Party (UNP) under Senanayake (1965-1970)<sup>193</sup> allowed the Federal Party (FP) to obtain status for Tamil as a language of administration in the northern and eastern provinces of Sri Lanka. Nevertheless, these changes failed to influence the higher levels of government; they were seen as unnecessary concessions to the Tamil community. Equal status of the two languages came in 1987-1988 as part of the peace deal brokered by India.

The kinds of Tamil political parties in Sri Lanka reflected the needs and aspirations of the Tamil people. The Tamil demands for equal status between the Tamil and Sinhala languages, the citizenship rights for stateless Indian Tamils, the formation of the secular state, the decentralization of power, and the abolition of caste and untouchability were viewed as ways to demarcate a distinctive ethnic Tamil Eelam. The SLFP and others failed to consider such demands, so the Tamil United Front (TUF) was formed, which included the FP, the Tamil Congress, and the Ceylon Worker’s Congress. Consequently, there was pressure from the northern part of the country, which played an important role in changing the face of the ethnic conflict to an armed-military movement of Tamil people. In the north, Tamil youths were critical of following the “constitutional path” to

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<sup>193</sup> S-C Pact of 1965 had provisions on language policy, decentralization of administration, and land settlement policy. The Councils had power over subjects to be mutually agreed upon between two leaders. For the text of the Senanayake-Chelvanayakam Pact of 1965, see Chelvadurai Monagaran, *Ethnic Conflict and Reconciliation in Sri Lanka* (Honolulu: University of Hawaii Press, 1987), 190..The Pact promised to take action under the Tamil Language Special Provisions Act to make Tamil the language of administration and of record in the northern and eastern provinces. Another landmark was the provision on amending Land Development Ordinance in order to allot land to Ceylon Tamils. Also a provision was made to have land in the north and eastern provinces made available to landless persons in the district.

address their grievances. Tamil extremism was triggered in early 1974, when the police fired on Tamil youths at an international conference.<sup>194</sup> Later in 1976, TUF was renamed Tamil United Liberation Front (TULF), which declared the motto of secession and adopted a resolution to that effect. The resolution ended on a note that “the restoration and reconciliation of the Free and Sovereign, Secular, Socialist state of Tamil Eelam... has become inevitable in order to safeguard the very existence of the Tamil Nation in this country.”<sup>195</sup> The secessionist movement failed, however, to find any ally in the Ceylon Worker’s Congress (CWC). This led to a division in the Tamil movement.

The events of 1977-88<sup>196</sup> were crucial to the development of political parties and LTTE, which claimed to be the sole representative of Tamil interests. The period witnessed major constitutional upheaval in Sri Lankan politics. In 1977, UNP assumed leadership under President Jayewardene, with TULF sitting in the opposition. The UNP fulfilled its electoral promise of replacing the 1972 Constitution<sup>197</sup> with the 1978 Constitution;<sup>198</sup> an era of extreme centralization followed. During this period, Sri Lanka lost its two leaders, Chelvanayakam of FP and Ceylon Congress leader G.G. Ponnambalam, which created a power vacuum and further contributed to the rise of militarism within Tamil nationalism. Jayewardene attempted to mediate between the leading Ceylon Tamil parties and TULF, instituting the Gaullist-style executive

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<sup>194</sup> See Kearney “Ethnic Conflict and the Tamil Separatist Movement in Sri Lanka,” *Asian Survey* 25, no. 9 (1985): 906.

<sup>195</sup> Quoted in Kearney 1973, 532.

<sup>196</sup> Two incidents made the presence of militancy real: the killing of SLFP Mayor in 1974 and the killings of four policemen in Velvettithurai in 1978 that changed the political scene in Sri Lanka. The killing heralded the beginning of terrorism, and the state had to adopt measures to counter political killing and violence.

<sup>197</sup> The 1972 Constitution virtually paved the way for majoritarian policies. It elevated the position of Buddhism, which did not sit well with minority groups. Historically, the demand of separate statehood assumed a concrete shape at the same time as the 1972 Constitution came into force, which was also called the “first republican constitution.”

<sup>198</sup> The 1978 Constitution introduced the proportional representation system and required two-third majority to amend the Constitution.

presidency and proposing a sixth constitutional amendment.<sup>199</sup> This new constitutional framework was responsible for minimizing the role of parliament. A six-year presidency was created with the stipulation that the executive would not be subjected to “disintegrating parliamentary majorities.”<sup>200</sup> This represented a significant move, consolidating the majority community and preventing government and the Parliament in Sri Lanka from suffering reversals due to its “fluid majorities.” This empowered the *de facto* head of the state to remain in power and not to be subjected to criticism. Sri Lanka also witnessed a massive scale riot in mid-eighties, and the immediate trigger of 1983 pogrom<sup>201</sup> was the killing of thirteen soldiers,<sup>202</sup> resulting in a large influx of Tamil refugees in India and other parts of the world. The beginning of the ethnic violence affected more than 100,000 Tamils within Sri Lanka. These events had a long-term impact on the Tamil population as they became increasingly marginalized first, under the Sinhalese centralized state policies, and second, by the Sri Lankan army that was sent to crush the infant armed movement under the leadership of LTTE, which resulted in the steady rise of Tamil refugee flow to India.

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<sup>199</sup> The 1978 Constitution of Sri Lanka introduced a presidential form of government. Under the constitution, the President was elected directly. It also introduced proportional representation, instead of the first-past-the-post system of the Westminster model. The sixth amendment imposed a ban on all political parties that advocated separatism and also those individual who advocated such policies.

<sup>200</sup> A. J. Wilson, *The Gaullist System in Asia: The Constitution of Sri Lanka (1978)* (London: Macmillan, 1980).

<sup>201</sup> Janatha Vimukti Peramuna (JVP), or Peoples’ Liberation Front, was responsible for instigating violence against minorities. The party has its root in the sectarian ideology, with ultra-leftist parties in the sixties, comprised of educated unemployed youths. Later, the JVP became a Sinhalese-Buddhist ultra-nationalist party. The problem escalated in the seventies when large Tamil minorities were displaced from the northeastern parts of Sri Lanka to inland areas. The trigger was an armed conflict in July 1983 that led to the gradual militarization of Sri Lankan society, which culminated in the complete isolation of Tamil minorities in the north and eastern part of the island.

<sup>202</sup> Neil DeVotta “Control Democracy, Institutional Decay, and the Quest for Eelam: Explaining Ethnic Conflict in Sri Lanka,” *Pacific Affairs* 73 no.1 (2000): 55-76.



### ***Political Persecution and Peace Initiatives to Bring Tamil Refugees “Home”***

The “Sinhala Only” and “in 24 hours” were the populist slogans that popularized Sinhala identity vis-à-vis Tamil identity; this was led to the creation of “definitive image of Sinhalese-Buddhist hegemony” against the fairly modernized and well-educated Tamils in Sri Lanka.<sup>203</sup> The Sinhala Only movement symbolized the emergence of ethnic strife between the Sinhala and Tamil communities. But it was the events of 1983<sup>204</sup> that finally shaped the discourse of Tamil movement, which assumed a military component leading to a spiral of violence and mass killings in Sri Lanka. The anti-Tamil pogrom in 1983 led to an exodus of Tamils from Sri Lanka to India. India shared a close and strong affinity with the Tamil cause in Sri Lanka, especially given the island’s physical proximity to the southern Indian state of Tamil Nadu. The Tamil refugees entered Tamil Nadu in three waves.<sup>205</sup> The first exodus coincided with events of 1983, which resulted in 134,053 Sri Lankan Tamils seeking asylum in Southern India. Following the Indo-Lankan Accord in 1987, 25,585 refugees returned to Sri Lanka by ship (Suryanarayan and Sudarsen 2000, 73). The second Eelam war in 1990 resulted in a second wave of refugees, with 122,000 Sri Lankan Tamils entering India. India provided “temporary asylum to refugees for whom the only durable solutions as resettlement and voluntary

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<sup>203</sup> S. Ponnambalam, *Sri Lanka: The National Question and the Tamil Liberation Struggle* (London: Zed. 1983), 248.

<sup>204</sup> An Anti-Terrorism Bill was introduced in the National Assembly to counter militarism; it only resulted in creating more “radicalized guerrilla” groups: the National Democratic Liberation Front (ENDLF), Liberation Tigers of Tamil Eelam (LTTE), Tamil Eelam Liberation Organisation (TELO), Eelam Revolutionary Organisation of Students (EROS), People’s Liberation Organisation of Tamil Eelam (PLOTE), Eelam People’s Revolutionary Liberation Front (EPRLF), and Tamil Eelam Liberation Army (TELA). Notwithstanding their difference in ideology, the groups were all averse to political bargaining and sought an armed solution to the Tamil question. These radicalized groups opposed the TULF, which was already part of the electoral politics. Nonetheless, their popularity also made TULF inadequate, and hence it raised questions about it being sole custodian of Tamil interest.

<sup>205</sup> V. Suryanarayan and V. Sudarsen *Between Fear and Hope: Sri Lankan Refugees in Tamil Nadu* (Chennai: T. R Publications, 2000).

repatriation.”<sup>206</sup> The third Eelam war in 1995 resulted in Tamils from Sri Lanka seeking refuge: by 1999, nearly 20,196 or more had fled the country.<sup>207</sup> The flow of refugees into India was directly linked to the ethnic conflict in Sri Lanka. By February 2002, 22,331 refugees had fled to India again: this number included 7,968 families consisting of 9,705 adult males, 8,110 females, 2,281 male children, and 2,235 female children.<sup>208</sup>

The nature of the refugee flow from the northeastern parts of Sri Lanka to India was quite distinctive. The largest refugee inflow occurred during the events of 1983; the number of refugees varied over the following twelve to fifteen years. The Tamil refugees were housed in various government-managed camps in Tamil Nadu. Initially, these refugees entered India from the southern part of India with Rameshswaram as the first port of entry; they later moved to the Mandapam camp located in Tamil Nadu. The Tamil refugees were repatriated in different phases: the first group was sent in the mid-eighties, accompanied by the Indian Peacekeeping Force (IPKF); later groups followed during the early- and mid-nineties. Some of these repatriations were official and occurred in consultation with the Government of Sri Lanka; this reflected the good relations between India and Sri Lanka.

In this section, I briefly review the aftermath of repatriation in the post-peace framework and investigate how the postcolonial state in Sri Lanka has failed to accommodate Tamil aspirations in Sri Lanka in the post-repatriation context, which is linked to the departure of Tamil refugees. I argue that the outcome of a “successful” peace process will determine the trajectory of the “successful” rehabilitation and

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<sup>206</sup> See UNHCR Activities Financed by Voluntary Funds: Reports for 1991-1992 and Proposed Programmes and Budget for 1993-Part II Asia and Oceania: A/AC/96/93 (Part II, 17 August 1992 (United Nations).

<sup>207</sup> UNHCR Chennai 2002

<sup>208</sup> Dept. of Rehabilitation, Government of Tamil Nadu, 2002.

reconstruction of Tamil refugees from India. The Tamil refugee repatriation from India was the result of the cessation of hostilities and the beginning of peace that commenced at the behest of “good bilateral” relations between the two countries and coincided with talks between the two warring groups, the LTTE and Sri Lankan Army. However, certain conditions facilitated repatriation, such as the end of hostilities between the two groups, which in turn permitted the “safe return” of refugees repatriating from India. In addition to the end of hostilities, the peace process needed momentum, with certain external players acting as a “monitoring agency.” It is imperative to discuss some of these peace initiatives to understand the Tamil refugees’ rehabilitation in their “home” and the creation of their “homeland,” especially in light of the unitary nature of the state in Sri Lanka, which was responsible for the politico-ethnic imbalance that favoured the interests of the majority community over the minority community. The conflict in Sri Lanka was the consequence of policies of marginalization; peace talks represented a way to rectify the imbalance, restore equality, and accommodate the interests of the Tamil minority.

*The Road to Peace: From Parthasarathy to CFA and ISGA*

The peace initiatives began with talks between the Tamil groups and the Government of Sri Lanka in 1984. This culminated in the “Parthasarathy Proposals” and the All Party Conference (APC). The APC was an attempt to unite Tamil political groups, the Eelam Peoples’ Revolutionary Liberation Front (EPRLF), the Eelam Revolutionary Organisation of Students (EROS), and the Tamil Eelam Liberation Organisation (TELO), to form an umbrella organisation, the Eelam National Liberation Front (ENLF) in order to address, with the LTTE, the issue of Tamil representation in Sri Lanka. In Thimpu, the Indian government was entrusted with mediating and brokering the peace agreement between the

Government of Sri Lanka and the Tamil politico-military organisation. The talks emphasized<sup>209</sup> that Sri Lanka was to be a “Democratic Republic of Sri Lanka” that would be recognized as the Union of States.<sup>210</sup> In a countermeasure, the Tamil group proposed four cardinal principles<sup>211</sup> that were directed toward the recognition of the Tamil language, nationality, and “original habitation.” The Accord<sup>212</sup> included crucial elements such as “the Tamil people” as a distinct identity with “an identifiable territory.” The Thimpu talks laid the foundation for other features of the devolution of power. They adopted measures to address the imbalance between the Tamil and the Sinhalese through the devolution of power to Provincial Councils<sup>213</sup> as part of the Thirteenth Amendment to the Constitution.<sup>214</sup> They promised to share power between the legislative and the executive authority to eight provincial councils. Furthermore, they promised to hold elections on the basis of proportional representation for the Provincial Council (PC),<sup>215</sup>

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<sup>209</sup> The Sinhalese viewed the talk as “a sell-out” and subsequently objected to any proposal related to the creation of Regional Council.

<sup>210</sup> The basic thrust of the paper was enshrined in Annexure A, B, and C. The northern and the eastern part of the country would establish Tamil as a language of administration, along with the Annexure B categorically stating that there would be little or no room for separate Tamil state. Annexure C, on the other hand, made provisions for one or more Regional Councils (RC) for devolution of power.

<sup>211</sup> For the text of the statements of 12 and 13 July 1985, see *Mainstream* 23, no.49 (1985): 26. The four principles were: the recognition of the Tamils of Sri Lanka as a distinct nationality; the recognition of an identified Tamil homeland and the guarantee of its territorial integrity; based on the above, the recognition of the inalienable right of self-determination of the Tamil nation; and the recognition of the right of full citizenship and other fundamental democratic rights of the Tamil, who look upon the island as their country.

<sup>212</sup> The Accord provided a conceptual framework for the resolution of the ethnic conflict and laid out the basis for an institutional power sharing mechanism between Tamil and Sinhalese communities. It declared Sri Lanka as, “a multi-ethnic and multi-lingual plural society” consisting of four ethnic groups: the Sinhalese, Tamils, Muslims, and Burghers. It further recognized that both northern and eastern provinces would be declared “areas of historical habitation of the Tamil-speaking population.”

<sup>213</sup> The creation of PCs was a vital part of the Indo-Sri Lanka Accord signed by India and Sri Lanka. The Accord endeavoured to provide a conceptual framework for the resolution of the ethnic conflict and layout the basis for an institutional power-sharing mechanism between Tamil and Sinhalese communities. According to the Accord, Sri Lanka was to be declared as “a multi-ethnic, and multi-lingual plural society” consisting of four ethnic groups: the Sinhalese, Tamils, Muslims, and Burghers. It further recognized that both northern and eastern provinces would be declared as “areas of historical habitation of the Tamil-speaking population”.

<sup>214</sup> Neelam Tiruchelvam, “Devolution of Power: The Problems and Challenges,” in *Sri Lanka: The Devolution Debate* (Colombo: ICES, 1996), 34.

<sup>215</sup> While the creation of PCs was a vital part of the Indo-Sri Lanka Accord signed by India and Sri Lanka,

wherein each province was to have a Governor directly appointed by the President. The chain of command would allow the Governor to choose the Chief Minister, who would be elected on the basis of the support of the majority of members of the Council. In relation to executive power, the Governor was to report directly to the President of Sri Lanka.<sup>216</sup> Thus, this scheme for the devolution of power structure enabled the Governor to undertake tasks that had previously been entrusted to the President.

In 1991, the Parliamentary Select Committee (PSC) was constituted to work toward the devolution of power in the northern and eastern provinces.<sup>217</sup> The PSC<sup>218</sup> emphasized the devolution package, which led to the creation of two separate councils in the northern and eastern provinces and an Apex Assembly, the National Chamber to “establish harmony and coordination between the Centre and the Peripheral Units with a view to integrating the Nation firmly.” In retaliation, the Tamil parties<sup>219</sup> presented a “Four-Point Formula”<sup>220</sup> to ensure a permanently merged North-Eastern Province (NEP) to represent the north as a unified politico-administrative entity. The Sri Lankan government

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these efforts failed to have any impact on some parties involved, i.e., the LTTE and Janatha Vimukthi Peramuna (JVP).

<sup>216</sup>The subjects and functions to be devolved on the Provincial Council were part of the 9<sup>th</sup> Schedule of the Constitution, called the Provincial Council List. The subjects included police and public order provincial planning, provincial housing and construction, agriculture and agrarian services, rural development, etc. There were two lists: reserve and concurrent lists. In the case of reserve list, the centre had exclusive jurisdiction over matters of law and order, defence and national security, foreign affairs, post and telecommunications, etc. In the case of the concurrent list, jurisdictions were with both centre and provinces.

<sup>217</sup>Parliament in Sri Lanka, Mr. Mangala Moonesinghe, M.P., *Report from the Select Committee Appointed to Recommend Ways and Means of Achieving Peace and Political Stability in the Country* (Colombo: Government Publication Bureau, 1993), 53.

<sup>218</sup>There were other devolutionary packages created in 1991 called the Parliamentary Select Committee (PSC); they worked towards finding political solutions in the northern and eastern provinces and also to prevent the possibility of disintegration of the nation etc., thus reducing defence expenditure.

<sup>219</sup>The Tamil political parties constituted of the Eelam People's Revolutionary Liberation Front, Tamil United Liberation Front, Eelam National Democratic Liberation Front, Eelam Liberation Organisation, Eelam Revolutionary Organisation of Students, People's Liberation Organisation of Tamil Eelam, and ACTC.

<sup>220</sup>The devolution of power; the institutional arrangement within this framework to ensure cultural identity and security of Muslims, and the Sinhalese in the northern and eastern provinces would enjoy equal rights similar to other minorities living in rest of the country.

compromised and promised to create the Regional Council (RC) for the entire northern and eastern provinces, in addition to two elected Provincial Councils. The creation of RCs was controversial. Political parties viewed it as a compromise to the unitary nature of the state in Sri Lanka. A solution was devised to de-merge the North-East provinces with “distinct units of devolution and substantial devolution” and to convert the unitary nature of the Sri Lankan constitution into one that was federal, but subject to national referendums. The UNP, the SLFP, the LSSP, and the Sri Lanka Muslim Congress (SLMC) supported the de-merger proposal, but they failed to arrive at a consensus on substantial changes in the Constitution. Despite such negotiations, the Tamil parties found it less agreeable, which led to the end of the PSC and its mandate to implement devolution of power.

When the People’s Alliance (PA) won election under the leadership of Mrs. Chandrika Kumaratunga in 1994, more proposals were put forth toward the devolution of power.<sup>221</sup> These proposals<sup>222</sup> were, in essence, constitutional reforms aimed at replacing the existing unitary constitution with a federal constitution and lay the structure of a federal form of government; in reality, the proposals failed to achieve this goal. The Draft Constitution of 1997 had provisions on the devolution of power. The Legal draft released in 1996 had some detailed provisions of devolution of power, but it fell short of accepting the Tamil aspirations; in fact, it strengthened the executive position without necessarily

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<sup>221</sup>The three proposals were, first, to have Devolution Proposal in 1995; second, to produce the Legal Draft on Devolution in 1996; and third, the government’s Proposal for Constitutional Reform was to be enacted in 1997.

<sup>222</sup>The framework essentially had provisions for devolution of power, finance, law, land, administration, and also two lists of subjects: the regional list and the reserved list (federal government list). Along with the preamble and chapters 1 (features of the constitution) and 2 (Buddhism), it also had some of the basic issues that dealt with Articles 2 and 76, which had the unitary features of the constitution. Both Articles 2 and 76 were deleted from the Draft, and it nearly took the step in making the constitution federal.

contributing to the devolution of power to provincial levels. Furthermore, the 1997 document failed to restore Tamil as an official language and continued to rely upon English as a link language in Sri Lanka. The talks were disrupted by the political assassination of Gamini Dissanayake, allegedly by LTTE, which ended the ongoing ceasefire. After the UNP took office the peace talks resumed under the helm of Prime Minister Ranil Wickremesinghe. The October general election of 2000 did not grant a clear mandate to any single party to form the government. As a result, the PA formed the government with the help of the EPDP and “an offshoot of SLMP,” the Muslim National Unity Alliance (NUA). There were interesting developments for various Tamil groups as most of the Tamil parties—the TULF, the ACTC, the TELO, and the EPRLF (Suresh faction)—formed a Tamil National Alliance (TNA).<sup>223</sup>

In 2002, the Oslo declaration in the Asia-Pacific region, North America and Europe pledged to support the historic peace process in Sri Lanka.<sup>224</sup> The first step was the declaration of an indefinite ceasefire between the Government of Sri Lanka (GoSL) and LTTE on February 2002. This ushered in “most secure peace and promising period in the island’s troubled recent history,”<sup>225</sup> which was preceded by the unilateral ceasefire by LTTE in December 2001. The Ceasefire Agreement (CFA) was based on a politico-military balance between LTTE and SLA. The Permanent Ceasefire Agreement was signed between GoSL and LTTE, with provisions for the necessary conditions for any negotiated settlement. The peace efforts since the permanent ceasefire have led to direct talks between the GoSL and the LTTE that seek the complete “disarmament by the

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<sup>223</sup> See *Daily News* (Colombo), 15 October 2001.

<sup>224</sup> A donor conference in Tokyo proposed to focus on longer-term financial assistance to further facilitate the peace process between the GoSL and LTTE.

<sup>225</sup> Sanjana Hattotuwa, *Overview of the Peace Process in Sri Lanka 2002-2003*, (Columbo: Centre of Policy Alternative).

Tigers” prior to a negotiated solution or “autonomy” with the Tigers. The PA cautioned against possible concessions prior to the complete “decommissioning of weapons by the Tigers” and the construction of the High Security Zone (HSZ), which would generate security concerns as some of the shortcomings of the ceasefire.<sup>226</sup>

The LTTE proposed an Interim Self-Governing Authority (ISGA)<sup>227</sup> for the north-eastern part of Sri Lanka. The LTTE proposal was in direct contrast to the GoSL’s proposal. Both had provisions for interim government/ administration (IA) in the northeastern provinces until a final solution could be reached. The government proposal was aimed to be an interim measure, and it was subject to the consent of both parties and provided an opportunity to revise every six months. The LTTE’s proposal intended to have an interim government for a period of four years, depending on the final settlement to the problem. As part of the Interim Administrative Structure, the proposals of the GoSL and the LTTE differed. The GoSL proposed a Provincial Administrative Council (PAC), with representatives from both the LTTE and the government, along with the creation of District Committees (DC) for each of the eight districts of the Northern and

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<sup>226</sup> *The Island* (Colombo), 3 October 2002.

<sup>227</sup> The ISGA proposal was to create DCs to “effectively exercise legislative and executive powers in eight districts of Amparai, Batticaloa, Jaffna, Killinochchi, Mannar, Mullaitivu, Trincomalee, and Vavuniya in the Northeast until a final negotiated solution could be reached and accepted.” In terms of functioning of PAC, the GoSL proposal would have the ability to function on its own except in matters of police, security, land, and revenue – but included rehabilitation, reconstruction, and resettlement. However, the modalities of the degree of involvement would be subject to discussion between two parties. Regarding finances, the government stated that in addition to funds from the donors to the Northeast Reconstruction Fund (NERF) –funds that were to be allocated by the GoSL. The ISGA, according to LTTE, was to have “absolute jurisdiction” in the affairs of NEP including resettlement, rehabilitation, reconstruction, and development, as well as the improvement and upgrading of existing services and facilities (RRRD). This would also include raising revenue and imposing taxes, law and order, and land. The ISGA would also have the ability and power to prepare annual budgets and create Financial Commission that would make recommendations as to the amount out of the Consolidated Fund to be allotted to the northeast provinces. The funds were to include government funds, NERF, and a Special Fund. The ISGA was to have the ability to “borrow, receive aid and trade” –a sore issue between the government and LTTE. In terms of marine and offshore resources, ISGA was to have the “ability to control over the marine and off-shore resources of the adjacent seas and the power to regulate access hitherto.”



Eastern Provinces (NEP). The DCs would function as delegates of the PC in order to effectively implement the decisions of the Council.

There were three crucial components in the LTTE proposals. The first established an institutional basis with the ISGA, which aimed to have further reach than the existing state power of Sri Lanka. The second was the basic provisions of the “Thimpu principles,” especially the politico-ideological principles that reiterated “Tamil nationhood, the right of Tamil nation for self-determination and the unified political unit of the north-east.” The third indicated the course of action that would follow the five-year interim period. Some reactions to the ISGA indicated that it went beyond the existing Constitution. Both the UNF and PA agreed that the existing Constitution did not adequately address the core issues of ethnic conflict. President Kumaratunga and PA asserted that the existing Constitution is “an obstacle to making any progress towards a settlement.” The LTTE proposal for IA attempted “to seek re-constitution of the Sri Lankan state within a framework of a dual power, within the Northern and eastern provinces.” These promises and negotiation were put on hold soon after the political crisis. The peace talks after the permanent ceasefire led to direct talks between the GoSL and the LTTE. There were more than six rounds of talks between the delegations of the GoSL and the LTTE’s representatives. Various committees were created to monitor the peace process. The first Sub-committee had the mandate of addressing constitutional, legal, and administrative affairs. The second Sub-committee dealt with De-escalation and Normalization (SDN), specifically dealing with the security concerns of the government. The third Sub-committee addressed the Immediate Humanitarian and Rehabilitation Needs of the Northeast (SIHRN), with special emphasis on women and children affected

during war. The government proposals called for certain confidence-building measures on the part of the LTTE, like the de-commissioning of arms before people could move into their homes in the HSZ. The political parties opposed the ISGA proposals. The SLFP reacted sharply to the ISGA, viewing it as the creation of a separate state for the Tamils in the northeastern part of Sri Lanka. They also considered government efforts to be mistaken for giving in to the demands of LTTE and thereby bifurcating Sri Lanka, by creating a “legal basis for a future, separate, sovereign State.”<sup>228</sup>

A new coalition government, the United People’s Freedom Alliance, was formed in April 2004 under the leadership of Chandrika Kumaratunga. It promised to “ensure transparency and inclusivity regarding the peace process.”<sup>229</sup> The new proposal spelled out the “new government’s strategy on the peace process enunciated the establishment of peace structures” that would play a pivotal role in moving the peace process forward, through the Peace Secretariat and the Ministry of Relief, Rehabilitation and Reconciliation. The basis of the National Advisory Council (NAC) for Reconciliation was to create a broad-based national forum to conduct inclusive and transparent negotiation that would include political, religious, and social leaders towards bringing peace, democracy, and development in the country.

Since the beginning of the ceasefire in 2002, there have been movements of internally displaced Tamils from different parts of Sri Lanka. The terms and conditions of the ceasefire agreement between the LTTE and the GoSL encouraged the prospect of the

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<sup>228</sup> Official Document on “*Statement by the SLFP on the LTTE’s proposal for the ISGA for the North and East of Sri Lanka*,” Colombo, 1

<sup>229</sup> See <http://www.peaceinsrilanka.org> for full text of the speech made by President Kumaratunga on National Advisory Council on Peace and Reconciliation (NACPR) on 12 June 2004

continuation of peace and rehabilitation of returnees. In the following section I analyze the impact of peace initiatives on returnees.

***The Impact of Peace Process and Experiences of Tamil Returnee-Refugees in Sri Lanka***

The Tamil refugees interviewed in Vavuniya and Mannar opined that the “ceasefire would bring peace to Sri Lanka”<sup>230</sup> and asserted that “we would like to stay in Sri Lanka if peace is given a chance.”<sup>231</sup> The refugee narrative asserts an interesting trajectory between the continuation of the peace process and the refugees’ desire to remain in Sri Lanka. It also links the prospects for the peace process with the likelihood for refugees to continue to reside in camps, despite hardships. Therefore, it is imperative to understand how the continuation of peaceful conditions remained a factor in the refugee rehabilitation and reconstruction in Sri Lanka. Moreover, the problem of integration of returnees remained an issue within the ceasefire document, as well as how the state of Sri Lanka would adopt policies to address the question of Tamil representation.

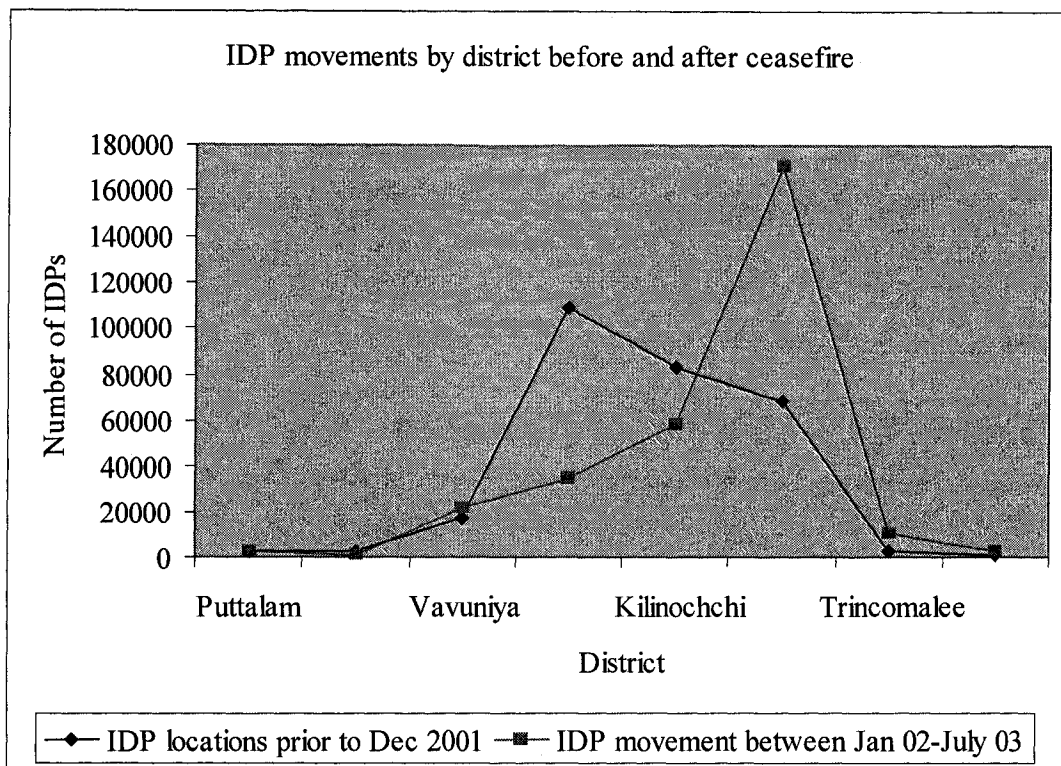
While the Tamil returnees did not hold any explicit viewpoints on the manner in which the problem could be resolved, they were interested in maintaining the status quo in order to facilitate the process of return to their exact place of displacement. Later, I will illustrate how the continuation of the peace process has provided stability and facilitated the returnees’ opportunity to be able to resume normal lives.

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<sup>230</sup> Interviews conducted in Vavuniya, 13-29 June 2002.

<sup>231</sup> Tamil returnee-refugees, interviewed June 2002, camps in Vavuniya. The statements are translation from Tamil.

### *IDP Movements by District Before and After Ceasefire*



Source: UNHCR, Colombo 2003.

As indicated in the graph above, there is more mobility among the refugee population since the beginning of ceasefire, especially in locations where returnee-refugee population had little access, such as areas under the jurisdiction of Tamil rebel group. Since 2002-2003, more returnees—now referred to as “displaced communities”—can move freely into Kilinochchi and Trincomalee, as opposed to the situation prior to 2001 in Vavuniya. This shows that the peace initiatives and their ramifications had an impact on the locations where returnee-refugees could settle. As discussed in the previous sections, the peace process and documents such as the CFA and the ISGA did not deal substantially with refugee resettlement. Despite the fact that Tamil refugees were displaced as a direct consequence of the ethnic conflict, the refugees lacked “direct

representation”<sup>232</sup> in the ongoing peace initiatives between the two warring parties. During their interviews, the refugee population in Tamil Nadu (India) had stated through their testimony that “war had made us homeless and only peace can bring us back home.”<sup>233</sup>

The direction of peace initiatives shaped the trajectory of refugee repatriation from India and laid the foundation for the accommodation of Tamil returnee-refugees in Sri Lanka. Though refugees had little say in matters related to the outcome of the conflict, some were interested in understanding the dynamics of the conflict. The Tamil refugees in Tamil Nadu appear optimistic about the end of hostilities between the LTTE and the SLA but were reluctant to repatriate their “home” based on “empty promises.” The difference between earlier ceasefires and the 2002 ceasefire in Sri Lanka seemed evident when a large number of refugees were allowed to “move back to their place of displacement,” to “home.”<sup>234</sup> However, the ceasefire of 2002 facilitated a dialogue with the LTTE and the Government of Sri Lanka promising to give up claims for a territorially demarcated separate Tamil state. Returnee-refugees viewed this as an optimistic sign. There were subtle signs emerging within LTTE that indicated the efforts toward a concerted peace process<sup>235</sup> and the resolution of the question of Tamil marginalization. In a speech, both Anton Balasingham<sup>236</sup> and Prabhakaran reiterated that “LTTE would

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<sup>232</sup> Refugees interviewed in Vavuniya, 20-30 June 2002.

<sup>233</sup> Tamil refugees interviewed on 2-29 July 2002, Gumudpundi camp Tamil Nadu, India.

<sup>234</sup> Excerpts from interviews conducted in Tamil Nadu, India and Vavuniya, Mannar in Sri Lanka, 2002.

<sup>235</sup> The chief negotiator of LTTE Anton Balasingham used the phrase “the homeland of the Tamils and Muslims” to refer to the region.

<sup>236</sup> In National Peace Council, Situation Report, 9-20 September 2002, Balasingham said, “the final solution of the ethnic conflict had to be ‘an amicable to our people and Sinhalese and Muslims living in the North and East.’”

consider favourably a political framework that offers substantial regional autonomy and self-determination in the homeland on the basis of right to internal self-determination.”<sup>237</sup>

Despite differences between the LTTE and the Government of Sri Lanka’s proposals, the basic thrust of the ceasefire was maintained until 2005. The reaction of the LTTE to some of the government’s proposals was sent to the Sri Lankan Monitoring Mission (SLMM) regarding high security zones and the re-settlement of internally displaced persons in the Jaffna. The LTTE found the connection of a humanitarian issue, such as the re-settlement of Internally Displaced Persons, with security considerations unacceptable and therefore non-negotiable. Soon both parties reached a stalemate and declared that re-settlement tasks would take place outside the HSZ. On political matters, the two parties promised to develop a federal system based on internal self-determination within a united Sri Lanka.

The Tamil refugees in India were the first to repatriate in the mid-eighties; they continued to live in exile in their country of origin in various welfare camps located in the north-western part of Sri Lanka. In a 2002 interview, Lakshman Kadirgamar indicated that the outcome of ceasefire was too soon to determine.<sup>238</sup> Kadirgamar maintained a cautious approach on settlements resulting from the peace talks and refused to assign agency to the peace broker (Norway). Bradman Weerakoon,<sup>239</sup> the Secretary to the former Prime Minister Ranil Wickremesinghe (December 2001-April 2004) asserted that there

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<sup>237</sup> The nuances of these speeches suggested a “paradigm shift” by the Chief government negotiator G.L. Peiris, who described the decision as “the historic and unprecedented breakthrough... was the explicit identification of a federal structure which will be the basis on which the political structure will be evolved.” Both the government and LTTE made significant changes from their earlier position, which paved the way for “good spirit” during the negotiated peace process. From text of speech on [http://www.eelam.com/leader\\_heroes\\_day\\_2002.html](http://www.eelam.com/leader_heroes_day_2002.html), p. 4

<sup>238</sup> Lakshman Kadirgamar, interviewed in June 2002, Colombo.

<sup>239</sup> Bradman Weerakoon, interviewed 29 June 2002, Colombo.

were reasons to be optimistic about the peace initiatives. In stark contrast to the earlier interviewee, Weerakoon was positive about the finality of the ceasefire and its subsequent effect on Tamil returnees and asserted that Sri Lanka was living under ceasefire, but the question of Tamil returnees needed to be addressed adequately. The challenges in successfully accommodating Tamils are intertwined with the reintegration of the Tamil refugees from India. Based on the testimony of various returnee-refugees in Sri Lanka, I will assess the Tamil refugees in the post-repatriation, existing status quo between the Government of Sri Lanka and LTTE.

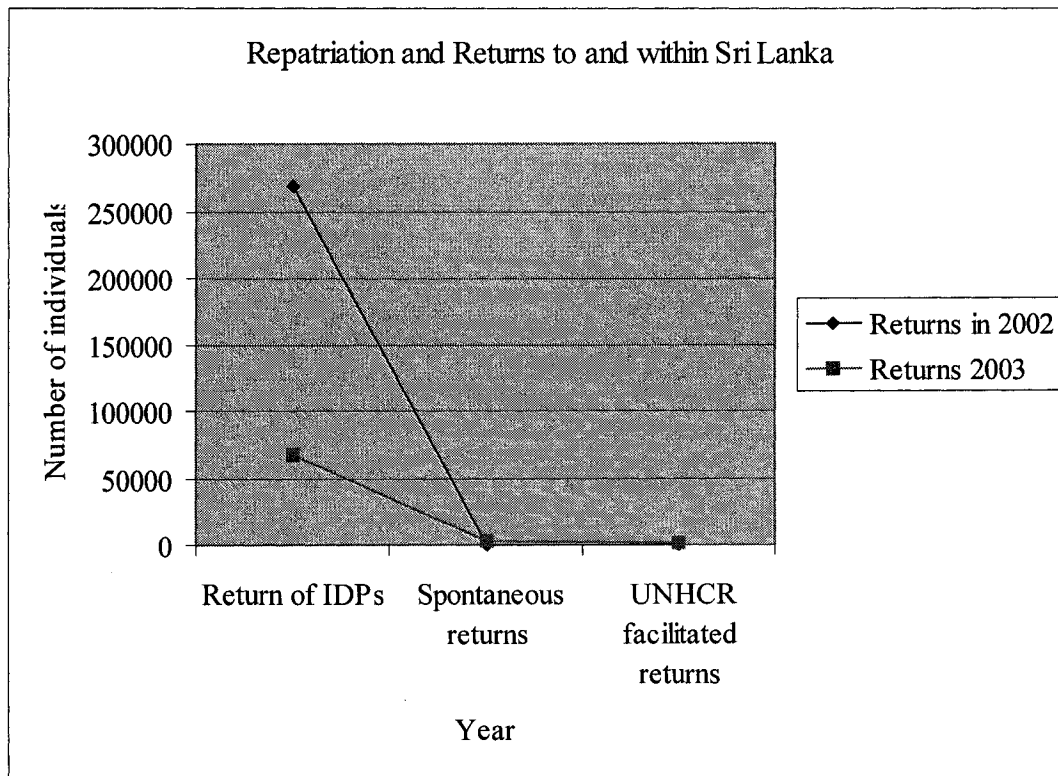
The first group of Tamil refugees accompanied the Indian Peacekeeping forces in the mid-eighties as part of a mission of goodwill between the governments of India and Sri Lanka. This was subsequently followed by further repatriation in the mid-eighties, the nineties, and early 2002. The repatriation of Tamil refugees from India coincided with the beginning of the peace process in Sri Lanka. Despite the partisan role of Indian peacekeeping forces in Sri Lanka in the mid-eighties, India has continued to receive and repatriate Tamil refugees. The discussion in the later section focuses on the impending rehabilitation/ reconstruction of returnee-refugees since their repatriation at various stages of conflict in 1983, 1992, 1995, and 1999. The process of repatriation occurred based on assumptions that the country of origin would be able to provide safety and dignity to returnees.<sup>240</sup> As the neighbouring state, India has been less proactive since the assassination of the former Prime Minister of India by LTTE in 1991, but it continues to support a large number of refugees from Sri Lanka. A further assumption made by

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<sup>240</sup> Most of these assumptions are part of the international refugee law, that nobody should be compelled to repatriate under difficult circumstances. Some of these assumptions constitute the basis of refugee repatriation in asylum state as convenient yardstick to "let refugees out once they are free to return" as stated by an official, interviewed on 26 July 2002, Tamil Nadu (India).

refugees is that they will be able to return and regain their former status as citizens in Sri Lanka.

*Repatriations and Returns to and within Sri Lanka*



Source: UNHCR and Ministry of RRR, 2003

In above graph I show that in 2003 the numbers of individual returns of IDPs had declined steeply in contrast to spontaneous returns in 2002. The ceasefire in 2002 facilitated spontaneous returns of Tamil returnees as compared to the UNHCR-facilitated returns. The situation in 2003 was much more stable, which resulted in the decline in the number of IDPs and even less so in the number of UNHCR-facilitated returns.

The Government Agent's (GA) office in Mannar estimated the population of the Mannar district at 97,101. The figure includes 5,276 displaced families (21,632

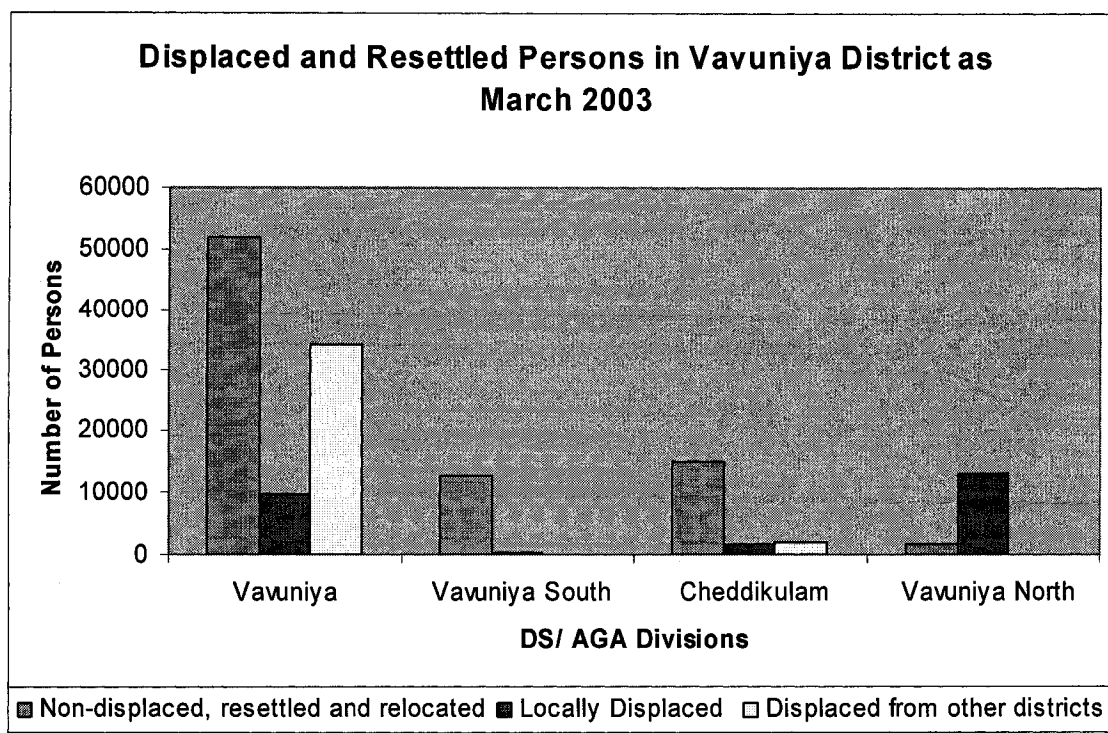


individuals) originally from other districts of the north and east. It excludes nearly 40,000 displaced persons living outside the region and an additional 30,000 refugees in camps in South India. Prior to the war, all ethnic and religious communities of the country were represented in Mannar, but presently there are fewer Muslims. The difference between the pre- and post-conflict ethnic balance is remarkable. Almost two decades of fighting have reconfigured the ethnic composition of the district. Mannar experienced several mass exoduses over the last fifteen years. People were repeatedly displaced within and from the district due to military operations and war-related threats. Minority ethnic communities were forced to leave their homes and seek refuge in the west-central provinces of Sri Lanka, particularly in the Puttalam District. Thousands of Mannar residents became refugees, many in southern India.

### ***Narratives of Tamil Return or "Narratives of Life?"***

In this section, I will discuss certain case studies of returnee-refugees in Sri Lanka. These refugees were repatriated from India during the beginning of the violent ethnic conflict in the eighties and were later repatriated as a result of the Indo-Lankan Peace Accord in 1987. There were three camps accommodating returnees on Mannar Island: the Pessalai Open Relief Camp (PORC), the Talaimannar Station Transit Camp, and the Pessalai Transit Camp at Kathaspitri. Apart from various transit centres, the UNHCR had constructed various reception centres at Talaimannar Pier, which was situated within the navy base where refugees were received for registration purposes. In the following graphs I examine the number of Tamil returnees residing in Vavuniya and Mannar.

*Displaced and Resettled Persons in Vavuniya District, March 2003*



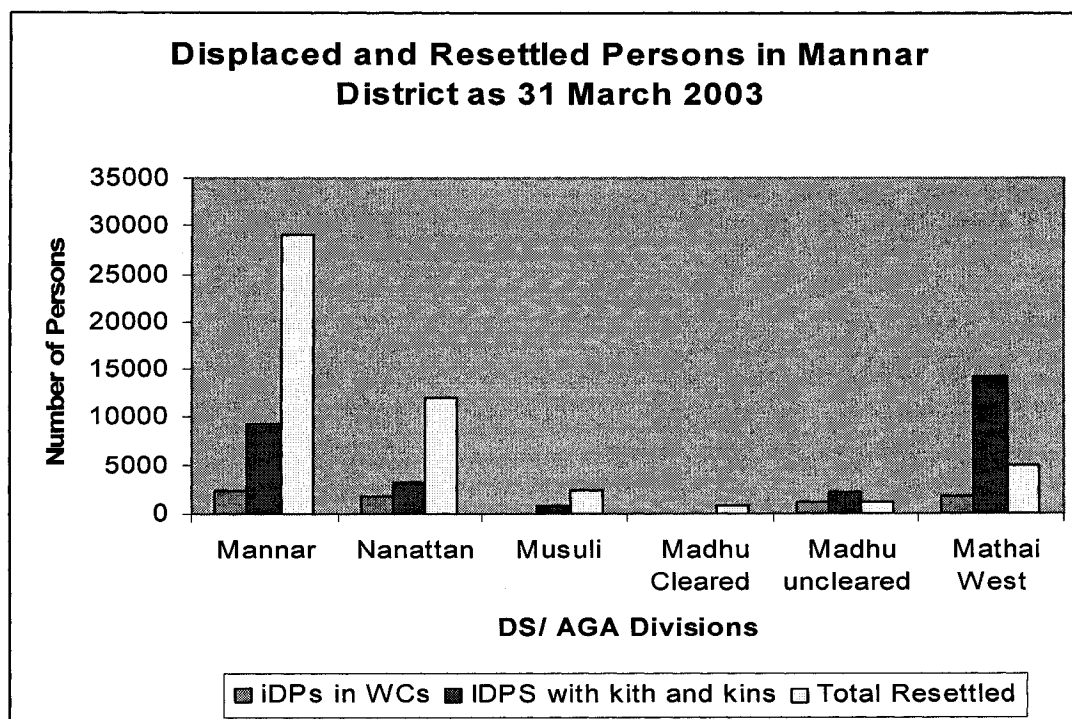
Source: UNHCR and RRR, 2003

The welfare camps in Vavuniya are managed by international non-governmental agencies in conjunction with the Government of Sri Lanka. The welfare centres were constructed as an interim measure to “house” returnees for short period of time prior to their “journey to home.”<sup>241</sup> The graph above illustrates the number of returnees resettled in Vavuniya. As shown in the graph, more Tamil returnees are resettled in Vavuniya in comparison to Vavuniya North, a rebel-controlled part of Sri Lanka. But with the ceasefire more Tamil returnees were given the opportunity to possible relocation to these areas. On the other hand, the Tamil returnees residing with friends and relatives in

<sup>241</sup> The Government Agent pointed out in an interview with me on 30 June 2002 that the situation in welfare camps was rather grim, and presently the Government of Sri Lanka was looking into other methods to resolve the problem. The GA agreed that welfare camps were meant to be temporary in nature, but because of peace efforts and stalemate between the government and LTTE, it was not safe for returnees to go back to their original place of habitation. However, another solution mentioned by the GA’s Office was to relocate refugees to another part of Sri Lanka. It seemed that refugees belonging to Mannar were given preference in this matter, which meant that other returnees had to continue to live in welfare camps.

Vavuniya fails to indicate the true extent of the problem, especially in relation to the distribution of state assistance and aid.

*Displaced and Resettled Persons in Mannar District, March 2003*



Source: Mannar Kachcheri, Mannar

Mannar has the highest number of resettled individuals, which is lower than Vavuniya South. Also, despite the pledges to resettle Tamils, preference is given to those “originally belonging to the district.”<sup>242</sup> This is evident in the graph of Mannar as more families have resettled in the Mannar district while few have settled in Madhu cleared. In March 2003, 29,133 people had resettled in Mannar, whereas only 727 had resettled in Madhu cleared. The graphs above also show a certain number of Tamils are still residing in various welfare camps in Vavuniya and Mannar, but fewer in comparison to those who live with friends and relatives. While it appears that Tamils are residing in welfare camps in

<sup>242</sup> As stated during an interview with the Government Agent in Vavuniya, June 2002.

Vavuniya, the number appears much less in Madhu uncleared and even less so in Madhu cleared.

To better understand the testimony of returnees, I have classified their testimonies based on their responses to the following question: what compelled the refugees to repatriate? Some of the returnees were twice displaced; other refugees were stranded between home and Open Relief Camps (ORC). I have categorized the testimony based on where they stayed since each refugee's viewpoint differed with respect to the repatriation process, home, and reconstruction or re-integration. Those who lived in makeshift camps were obviously more politically conscious regarding the outcome of the ethnic conflict. Resettled families (Madhukarai) were less interested in the politics of the conflict, as long as they were in the cleared territories of Sri Lanka. The few common threads among these cases was the refugees' willingness (in some cases) to repatriate because Sri Lanka was "home," and they were unwilling to live in a foreign country that treated them well but that provided no political status. However, there were cases when refugees indicated that they would remain in exile if the "right opportunity presented itself."<sup>243</sup> Some of the issues encountered by these returnee-refugees were the re-instatement of political rights at "home," gaining mobility while living in the ORC, and the effects of the peace process on reintegration. I argue that the refugees were repatriated to Sri Lanka based on false assumptions that the situation in their country of origin had changed; refugees were repatriated because "they wanted to be home" (or this seems to be the assumption, although it was contested in the testimonies); and the idea of "home" was used by asylum states to entice or encourage repatriation. I question the normative assumptions of "home"

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<sup>243</sup> A group of refugees in Gumudpundi camp in Tamil Nadu indicated that they would have liked to stay on-but the government seemed reluctant to continue their ration (Interview, 29 July 2002).

as asserted by some refugee scholars and the one-dimensional nature of relations between home, nation, and community: that is, the repatriation of refugees automatically results in a return to “home” and the reclamation of national identity as citizens of states. I agree with Malkki’s understanding that identity should not be held together with the “national order of things;” rather, it should move away from sedentary biases and allow the transformation of identities through the process of emplacement. In relation to the peace process, the various groups of refugees were repatriated during critical moments in the peace initiatives between India and Sri Lanka. Some returnees were repatriated as a result of the Indo-Lankan Accord and later accompanied the Indian peacekeeping force, particularly toward the beginning of the ceasefire in 2002. The initial location of stay (temporary housing or open relief camps) was transformed into more permanent housing when conflict erupted between the LTTE and the SLA and refugees were caught in transition for nearly six years. In the following section, I will investigate what motivated refugees to repatriate to “home.”

*Refugee Narratives I: Vavuniya and Mannar*<sup>244</sup>

The Poonthoddam Unit 8<sup>245</sup> was one of the few makeshift welfare camp created by the Sri Lankan government during the repatriation process in the nineties. The testimonies of *Gopat, Basantha, Mahalakshmi*, and others prove that families were “encouraged to return home” from India despite concerns regarding safety issues. Upon returning, these

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<sup>244</sup> The first part of research was conducted in Vavuniya that housed various welfare centres. The interviews were conducted in welfare centres (WC) located in an old school in Sithamparapuram, Poonthoddam in Vavuniya, Pessalai, and Madhukarai in Mannar. The classrooms in Poonthoddam Unit 8 and 2 were converted into makeshift rooms that housed a large number of families with thin sheets of plastic as barriers providing minimum privacy to each family.

<sup>245</sup> Poonthoddam welfare centre 8 had in total nine units that accommodated nearly 222 families and 847 members.

families were provided with identity cards for purposes such as establishing their political status or obtaining rations. However, families residing in uncleared parts of Sri Lanka had difficulties obtaining rations from the government as they needed permission to enter the uncleared areas. Also, the access to cleared territories from uncleared areas was forbidden without proper authorization. As part of the resettlement package, families were given the opportunity to go back to their “place of natural habitation” or resettle where land was readily available.

During interviews, respondents expressed their fears about how repatriation had occurred in India. Some refugees alleged that the wrong information related to “political developments” in Sri Lanka was responsible for their present statelessness in Sri Lanka. Like other returnees, Gopat had requested that Government Agents allow his family to return to Jaffna, their “original place of habitation.” Since political uncertainties prevailed in Jaffna, few resettlement programmes were available (at the time of the interviews). Despite the official reopening of the main road that linked Jaffna to other parts of Sri Lanka, the Government of Sri Lanka was reluctant to send refugees to these territories.

Rani<sup>246</sup> was happy to return to Sri Lanka but needed more assistance from the Government Agent in Vavuniya and Mannar. Unlike other returnee-refugees, Rani viewed the stay in transit camp as temporary. Like Rani, other returnee-refugees like Lakshmi and Basantha were leading difficult lives in Sri Lanka. These families had been

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<sup>246</sup> Rani Nessarani was originally from Trincomalee. She was one of the 17<sup>th</sup> family of a total 200 families living in the welfare camp. Nessarani lived in the welfare camp with her family. Nessarani was originally from the western part of Sri Lanka. She and her family were forced to seek refuge in India when conflict broke out between LTTE and the Sri Lankan army. She has three children, and one of them was working in Dubai. Initially she had intended to go and work in the Middle East rather than going to India, but her son convinced her that India would be a safer option. During her stay in India, she lived in Gumudpundi camp in Tamil Nadu. Her family was repatriated in early 2000. They were not part of the official repatriation process, as the UNHCR “facilitated the return.” Since the family had decided to return “voluntarily,” they did not receive any governmental assistance as part of resettlement package; they have been living a difficult life in the welfare camp.

living in welfare camps for five to six years. While some expressed happiness on being “home,” other refugees were still expecting to return to their “original place of habitation.” Rani asserted that the reason for returning to Sri Lanka was quite simple: it was “home” and her friends from Sri Lanka had been informed that it was “safe to return.” She pointed out that “people in India are nice, but Sri Lanka was home and therefore it was better to live in Sri Lanka than in India.” Rani’s eldest son helped out by sending money from Dubai. They were studying during their stay in refugee camps in India. Since the family had voluntarily decided to return, Sri Lanka’s government had not provided any kind of resettlement package, but aid was provided by aid agencies. Like Rani, most Tamil returnees had to flee to India during the ethnic conflict and have returned due to the brief period of ceasefire in Sri Lanka. In fact, during the interview with the Government Agent (GA), it was clear that officials were aware of “this dilemma of returnee-refugees” but were unprepared for the magnitude of the problem. The GA asserted, “it is disconcerting that most of these returnees were stranded in their own home place, yet have not fully settled in their original habitat.”<sup>247</sup> I will briefly discuss a few more narratives, such as Gopat’s, who came from Jaffna; Mahalakshmi’s (Jaffna); Basantha’s (Jaffna and Mullaitivu); Kalachelvi and T. Lakshmi’s (Mullaitivu).<sup>248</sup> The Gopat family was repatriated from the Gumudpundi camp in Tamil Nadu.<sup>249</sup> They were

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<sup>247</sup> Government Agent, interviewed 2 July 2002, Mannar.

<sup>248</sup> The excerpts of these testimonies focused on some basic questions to returnees such as reasons for fleeing India, repatriation, and the nature of refugee-life in country of origin. The excerpts indicate the present status of returnees in the country of origin and motivations for possibility of seeking refuge in asylum states in the near future. These excerpts do not give the entire interviews conducted with each individual or family.

<sup>249</sup> Mr. Gopat was 50 years old. His family was originally from Jaffna and had to flee home due to army atrocities. During the conflict of mid-eighties, he lost his two sons in direct confrontation with “the Sri Lankan army.” He was forced to flee from Jaffna with his wife and two children during the conflict. Initially, his family sought refuge in the eastern part of Mannar in Sri Lanka. The family lived in Mannar for five years before seeking asylum in India. Like many families, Gopat’s family tried living in Sri Lanka

part of the official repatriation of the mid-nineties. Both the Government of India and the UNHCR helped refugee families in the repatriation process. Since the repatriation, most refugee families have been living in transit camps. Gopat and his family had no prior knowledge that they would be stranded in welfare camps in Sri Lanka for nearly seven years. Initially, families were living in makeshift camps in Pessalai (ORC). They have since been moved to camps in Mannar. Gopat preferred to live “a life of refugee in India,” where his status was “well-defined.” In India, Basantha<sup>250</sup> and Mahalakshmi<sup>251</sup> lived in various camps in Tamil Nadu. Initially, Basantha was arrested and placed in the Special Camps due to alleged ties to the LTTE. Later, Basantha was released after eight months and allowed to live with her mother-in-law in the Sivakasi camp. Basantha was

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after being displaced from Jaffna. Gopat's sons were studying at Jaffna University prior to fleeing to India. While studying at the university, his sons were involved in the Tamil movement. It entailed mostly organizing talks and seminars and matters related to Tamil situations in the island. However, they were not part of the LTTE. Gopat asserted his sons' vision of a Tamil solution to the problem was different from the one envisaged by LTTE. But he did not want to discuss how his sons were killed. He reiterated that people who “claimed to help Tamil cause and its people” killed his sons. Gopat's wife was approximately forty years old. She was a teacher in a community school in Jaffna before seeking refuge in Mannar. Presently, the couple has three children, between the ages of 16 and 20. The eldest daughter was 20 years old; the youngest son was 16 years old. The second child was physically challenged. Both the eldest and the youngest children want to study further; however, since they had to move around a lot, the family had no documents to prove their status.

<sup>250</sup> Basantha was married to Mahalakshmi's son Muruli in Jaffna. During the conflict of the mid-eighties, she continued to live in Jaffna. Her father-in-law's shop was burnt down, and he was killed in the incident. Muruli was a member of Tamil organisation, and his task entailed organizing events and generating awareness among Tamil-speaking people living in the eastern part of Sri Lanka. She pointed out that her husband's involvement was more an activist role, and it was aimed towards creating a sense of awareness among the Tamil population. In regard to her role in the organisation, Basantha said that she often helped her husband in organizing events; however, after her husband's death, Basantha decided to seek refuge in India along with Mahalakshmi.

<sup>251</sup> Mahalakshmi was nearly 60 years old living with her daughter-in-law Basantha. Mahalakshmi lost her husband in the riot of 1983 in Colombo. Her son was part of the Tamil movement and was an active member of political organisation in Sri Lanka. Lakshmi's husband had a shop in Colombo, while the rest of the family lived in Jaffna. During the conflict of the mid-eighties, riots erupted in Colombo and other parts of Sri Lanka where the shop was looted and set on fire; Lakshmi's husband died in the fire. After losing her husband, Lakshmi decided to move to Mullaitivu and stay with her sister. Lakshmi's son continued to live in Jaffna. In 1990, conflict erupted in Jaffna between the LTTE and the Sri Lankan army. During this conflict, Lakshmi lost her son. Thereafter, she decided to seek refuge in India. In 1993, Lakshmi and her daughter-in-law arrived in India. They lived in Mandapam camp for a period of two years. At the end of the second year they were transferred to Sivakasi camp. While living in Sivakasi camp Lakshmi was able to get dole and ration. The family lived in Sivakasi for five years. Lakshmi and her daughter-in-law were repatriated in 1997 as part of the spontaneous repatriation process.



repatriated in 1997; since then, she has been living in a transit camp. She has requested that officials allow her family to return to Jaffna as soon as possible. Lakshmi, on the other hand, stated that India was better than Sri Lanka. The situation of Ms. Kalachelvi and T. Lakshmi (her sister) are different.<sup>252</sup> Since the repatriation, families have been living in an open relief camp in Pessalai. The earlier period of stay after repatriation was quite comfortable due to a settlement allowance provided by the Government of Sri Lanka and the UNHCR. Both sisters were still living in relief camps in Pessalai. Lakshmi expressed a desire to return to India and was looking for a fisherman "to ferry them across the sea" to India. They have run out of cash and rations in the camp. According to Gajendra's testimony, with adequate money he would be willing to "ferry across" to India.<sup>253</sup> He felt cheated that the Sri Lankan government failed to provide adequate

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<sup>252</sup> They are sisters originally belonging to Mullaitivu, Sri Lanka. The political crisis of the mid-eighties was responsible for their displacement from Jaffna to Mullaitivu. During this period, some parts of Sri Lanka were unaffected; Mullaitivu was one such area. Soon the crisis changed: it turned into an armed conflict between various Tamil nationalist groups and the Sri Lankan army. The sisters were part of the armed struggle; however, their role was mostly limited to organizing meeting events, etc. Given the limited role in the Tamil movement during the early nineties, both sisters decided to flee India. The sisters lived in Special Camp of Vellore for three years. The sisters were married in Thiruvannamalai refugee camp in India. The family was repatriated in the late nineties as part of the official repatriation process.

<sup>253</sup> Gajendra was originally from Trincomalee. His family was forced to flee and seek refuge in India in the early 1990s. He has been living in a transit camp for quite sometime now. Gajendra was living with his mother and three children. Gajendra lost his wife in India. She died of an acute stomach problem. Since then, he has been taking care of his children with the help of his mother. Gajendra's mother is sixty-five years old with acute health problems. Gajendra pointed out that one of the reasons the family decided to return to Sri Lanka was because of his mother's poor health. In fact, his children were in favour of staying back in India. His sons were working in the local NGO of ERR. The youngest daughter went to school regularly in India. The family was part of the official repatriation of 1997 between India and Sri Lanka. Since 1997, Gajendra and his family have been living in a transit camp in Pessalai. He indicated in the interview that during the repatriation process, most refugee families did not understand what was happening. The idea of resuming old lives as "citizens of the state" encouraged repatriation. Since returning to Sri Lanka, Gajendra pointed out "they have been living a life of refugees once again." While living in Sri Lanka, refugees continue to live in camps and cannot go back to Trincomalee. Also his mother's health was not good, and he was concerned that with limited rations and no jobs they would not last long. Gajendra said, "If I had known that returning to Sri Lanka would mean this then I would have stayed back in India." The sons have been doing some odd jobs, but remuneration was not good. There have been days when family members had nothing to eat. The family was given a resettlement allowance when they returned to Sri Lanka, but it did not last long. Soon, money ran out, and they were back to their original condition of being "refugees."

information regarding “situations in Sri Lanka” prior to repatriation. The desires for a return “home,” for rehabilitation, and for self-sufficiency are clear from the different testimonies. These returnees were happy to be “home,” were disappointed with their existing status in the peace process, and were unhappy with the role of the government in providing jobs.

*Narrative I* therefore indicates: first, few refugees regretted the decision to repatriate; second, most of the testimonies attest to the possibility of Tamil returnee movements in Sri Lanka; third, they were optimistic of the current peace process; and fourth, they had lived in isolation in India (special camps), so returning to Sri Lanka was the best option available to these groups of women. Lakshmi said, “The Government of Sri Lanka and other agencies have forgotten us.” Her sister indicated, “Life in India is much better than this.” Kalachelvi was not too keen to go back to India as “there is little choice here as the government is not helping.” Rani had a little plot of land in Trincomalee before her family was forced to flee to India. She wonders whether she will be able to regain the plot of land. She would prefer to be back in Trincomalee rather than living in camps in Sri Lanka. Rani asserted that, compared to other refugee families, she has a better life (because of her son), but she was growing old and preferred to go back to Trincomalee before she dies. Rani has already petitioned the Government Agent to go back to Trincomalee.

#### *Refugee Narratives II: Twice Displaced in Vavuniya and Mannar*

In this section, I discuss case studies that differ from *Narrative I*. These returnee-refugees had few reasons to be optimistic about the peace process or repatriation itself and were eagerly awaiting the opportunity to return to India. The interviews were

conducted in one of the permanent settlements where returnee-refugees had been living for a long time. This camp was located in Poonthoddam Unit 2 and Sithamparapuram. The camp had thirteen shelters, thirteen washroom areas, four motorized tube wells and other such facilities for its inmates. Assistance was limited to dry rations; generally, there were not enough rations for everyone. During the interview, the camp leader indicated that there were rations for five families.

In Poonthoddam 2,<sup>254</sup> I interviewed various family members of Peter Vadival and Sashikala. They were residing in the government settlement area in Sithamparapuram, Vavuniya. Peter was the camp leader responsible for spearheading the repatriations in 1995 and 1997. In 1995, Peter's family was repatriated from the Gumudpundi camp to Sri Lanka. The family was later shifted to various camps in Sithamparapuram by the UNHCR. During the course of the interview, I was informed that one of his daughters and her husband had committed suicide and were survived by a young son. Peter's family was frantic to bring their grandson from India.

Prior to the 2001-2002 ceasefire the refugees in camps had few freedoms, so even if they were citizens, they were subject to many restrictions. The pass system restricted returnees' mobility and their access to the outside world. Since 2002, returnees needed permission to leave the campsite, and the process was tedious and cumbersome. Refugees appeared less informed about various political developments in Sri Lanka: while their knowledge of the ongoing civil war seemed adequate, few had hopes of a peaceful

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<sup>254</sup> The Poonthoddam Unit 2 was comprised of 171 families consisting of 710 members. Mr. S. Tahnjcashalem was the camp-in-charge of unit 2. The camp profile clearly indicated the exact location of displacement of refugee families. The camp consists of families from Jaffna (17 families; 82 members), Killinochchi (76 families; 325 members), Mullaitivu (68 families; 279 members), Vavuniya (uncleared territory) (9 families; 18 members), and Vavuniya (cleared territory) (1 family; 6 members). Most people were allowed to enter Vavuniya cleared area via Thandikulam since 1996.

resolution to the Tamil conflict. Some of Peter's family members had been "going back and forth between India and Sri Lanka since their actual repatriation in 1995." Peter was reluctant to talk about "recyclers"<sup>255</sup> as it was under his leadership that some refugee families had repatriated as part of the official repatriation in 1995. Peter's family regrets making hasty decisions in returning to Sri Lanka. Also, the assistance provided by the UNHCR in the initial years, and later by the government, was inadequate and barely enough to survive. As part of the official repatriation of 1997, most refugees living in Sivakasi and the southern part of Tamil Nadu (India) were encouraged to return to Sri Lanka. UNHCR officials visited various camps with local authorities (the District Magistrate and the Superintendent of Police) to "inform the refugees" of their choice to go back to Sri Lanka and facilitate the repatriation process.

Ganesh's family was shown a videotape that proved the return of "safe conditions in Sri Lanka." Ganesh<sup>256</sup> wanted to make sure that Sri Lanka was indeed safe enough to return. He petitioned to stay in India with the help of a local NGO; however, he and his family were "forcibly repatriated" to Sri Lanka. Refugee-families were individually

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<sup>255</sup> I use the term "recycler" in relation to refugees who had been repatriated from country of asylum more than once.

<sup>256</sup> Karupiah Ganesh was 60 years old. He lived with his wife and three sons in the welfare camp in Vavuniya. His wife was suffering from gastric-related problems. The problem was diagnosed for the first time in India. Over a period of time, the family moved around various camps in India. They lived in India for 10 years and later were repatriated to Sri Lanka more than once. This family was called the "recycler." They first sought refuge in India in the mid-eighties. The family was from Trincomalee, which was the hot seat of conflict, and had to flee during the intense conflict between Tamil groups and Sri Lankan army. While living in India, they stayed in Mandapam camp for a year and half. Later the family was transferred to Sivakasi and to the northern part of Tamil Nadu. But as part of the Indian peacekeeping mission, these refugees accompanied the Indian army sent to the island of Sri Lanka. Thus the first repatriation occurred when Indian peacekeepers were sent to Sri Lanka in the late eighties; a large group of refugees accompanied them as part of the good will mission. Soon they were allowed to go back to the place of displacement. Though the families returned to Trincomalee, they soon had to flee home again when conflict broke out between SLA and LTTE. Due to intense power struggle between the various Tamil groups to gain the supremacy of the Tamil representation, the family had to flee to India again. Twice displaced refugees were allowed to return to original habitat, but had to flee when severe fighting broke out between the government forces and the LTTE.

interviewed to confirm each refugee's "voluntary consent" in order to "facilitate repatriation." Some of the refugees alleged "forcible repatriation from India." In 1992, India's High Court at Madras directed the state of Tamil Nadu to "provide all facilities to the refugees as entitled according to the international law."<sup>257</sup> The Court ruled that most refugees were not in a position to consent to return to their country of origin and needed more time to assess the situation. This failed to stop the forcible repatriation and, instead, the UNHCR became involved to minimize such allegations. Both T. Victoria<sup>258</sup> and Sivasothy<sup>259</sup> were part of the forced repatriation in Sri Lanka. Tanghai Parvari was subject to forcible repatriation as she was "persuaded" to repatriate to Sri Lanka.<sup>260</sup> The UNHCR

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<sup>257</sup> In the case of *P Nedumaran and Dr. S. Ramdoss v. The Union of India*, the court ruled in favour of petitioners (WP No. 12343 of 1992 "to direct respondents to nominate the respective Judges to verify the voluntariness of the refugees to go back to their country").

<sup>258</sup> T. Victoria was 41 years old. She first visited India in 1990 and stayed for three years. Victoria's family returned to India for the first time to Sri Lanka in 1992-93; later they were back in India. The family have been twice displaced and repatriated to Sri Lanka. They moved between three camps while living India: 1) Virendranagar, Vallai Pulti Camp; 2) Kallurchandri camp; and 3) Sivalaskshmi Camp. In 1993 when the family returned to Sri Lanka, they wanted to stay back and rebuild their lives. In terms of money, the family received rs.300 per month to help defray the costs of clothes, utensils, etc. However, during their first period of repatriation to India, the family lived in Pessalai camp. Soon the family found the means to return to India, as life was rather grim in Sri Lanka. They preferred "restriction in terms of their movement in India" but could not stay in Sri Lanka. The expectation that the family had after returning to Sri Lanka for the first time soon disappeared. During the second period of their exile in India, the family lived in Gumudpundi camp in Chennai. The reasons for repatriating the second time around were that the family was part of the forced repatriation under the "verification/ authentication of the UNHCR." Since 1997, the family has been living in Sithamparapuram settlement camp in Vavuniya.

<sup>259</sup> G. Sivasothy was 45 years old. His family comprised of wife, mother, and three children under the age of 18. His family was repatriated in the mid-nineties. Sivasothy's wife was from Jaffna and most of children were born in Sri Lanka. They had to leave Jaffna during the problems of late eighties when a power struggle broke over Jaffna territory between the LTTE and Sri Lankan army. The family sought refuge in India and stayed in Mandapam for nearly four years. Soon after, they were transferred to camps in Thiruvannamalai district. While living in the camp, Sivasothy had a comfortable life: he received regular dole along with ration (which was a little irregular), but he was happy because his children were allowed to go to school. Their education did not suffer, and they were in different classes. Most children were going to school in India were able to get special meals; however, the special diet was given to children within the age group of 7-13.

<sup>260</sup> Tanghai Parvari was 46 years of age and lived with six family members. She visited India for the first time in 1985 and returned in 1988 as part of the National Housing Development; she was compensated 25,000 rupees. After a brief period in Sri Lanka, she decided to go back to India again. The reason for her fleeing had more to do with crisis that was brewing in the island. During her first visit to India in 1985, she lived in Tarapuram camp for two years, and one year in Mandpam camp in Tamil Nadu. During the first period of her stay in India, the Collector's Office (CO) had visited the camp and tried to convince the refugees to go back to Sri Lanka, and later incentives were offered too. It was interesting that CO would get

was involved in encouraging Tamil refugees to make informed decisions to repatriate to Sri Lanka in the midst of a brief ceasefire. The UNHCR office enabled this process of repatriation through video clips and fliers from Sri Lanka to convince Tamil refugees that the situation had improved to facilitate their return with “safety and dignity.” Along with Parvari, other families “consented” to repatriate to Sri Lanka. Victoria’s family pointed out during an interview that “they consented by signing a green form” distributed by the UNHCR to facilitate their safe and voluntary return to their homeland. However, upon repatriation to Sri Lanka, the family realized that “nothing had changed in Sri Lanka.” She still has a daughter living in one of the camps in India. Sivasothy’s family was returned as part of the official repatriation in mid-nineties. During the first few months, the family received assistance, a settling-in allowance, cash, and dry rations.<sup>261</sup> However, over time such assistance reached the camps more irregularly; finally, it stopped. The World Food Programs, working in conjunction with the UNHCR (Colombo), stepped in for a while, but only for a brief period. At present, most returnee-refugees are living with very little food, as both WFP and the UNHCR have suspended food distribution (a case in point is the Talaimannar camp). In the ORC, Selvanari<sup>262</sup> discussed problems relating to

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involve in such a clandestine affair to make refugees go back. The backdrop of this repatriation is the nature of the political situation both in Tamil Nadu and India prevailing at that point in time. In 1990, they lived in Avinashi Camp for a period of two years. She has six family members and lacked resources to take care of them. In terms of money, they were given an amount of 120 rupees per month, which was not adequate, but the family managed somehow. She also indicated that during her second visit she was less inclined to go back to India but had little choice and therefore had to return. She has been living in welfare camp for eight years.

<sup>261</sup> The returnee-refugees were given resettlement packages consisting of dry ration (rice, pulses, salt, oil, chili powder, and sugar). They were provided financial assistance that varied from 6000 rupees to 8000 rupees as part of the package to help them rebuild their lives. While living in a transit camp, the GA’s office promised that the duration of their stay would be for a short while only, and refugees would be able to return to their home place. Since that statement, according to returnee-refugees, more than a few months have passed, and they are still living in transit. The refugees had not anticipated that repatriation would result in transforming them into refugees in their own homeland.

<sup>262</sup> Selvanari was another inhabitant in the same camp. Selvanari lived with her 12-year-old daughter. She was originally from Trincomalee. She was part of repatriation process of mid-nineties. Her family was

conditions in welfare camps in Sri Lanka; she spoke of feeling like refugees in their homeland, despite being “home.” The information sessions provided by the UNHCR were misleading since repatriation to Sri Lanka once again made them refugees.

In the previous section I have discussed testimonies of Tamil returnees in welfare camps in Sri Lanka. These refugees have often been termed as internally displaced persons as they are unable to return to their exact place of dislocation. Certain trends emerge from these narratives: refugees were accepting of India’s role during exile, and while they would have liked to “stay on,” few felt welcome once the peace process had begun. Some remarked on the difference in attitude of the host-population despite their isolated stay in India (as they lived in camps), refugees knew that they had to return to Sri Lanka. Moreover, from the beginning of their status as refugees in India, they knew that their stay was temporary. Most refugees agreed that the Indian government had been rather generous with providing education, and the role of OFEER, a non-governmental organisation, had a distinctive role in motivating refugee families to continue with vocational training and education.

But the twice returnee-refugees or *recyclers* had a different attitude toward repatriation in comparison to the refugee-returnees from *Narrative I*. The cases discussed in this section—Peter, Sivasothy, and Selvanari—seemed quite different from *Narrative I*. With the exception of Peter’s family, most refugee families were eager to go back to India. These refugees did not perceive repatriation as a “return to ‘home.’” Some were

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repatriated from Sivakasi camp in India. Selvanari and her daughter decided to return to Sri Lanka because they presumed their return would automatically translate into resuming old lives. But Selvanari soon realized that repatriation would not be a return in the true sense. Selvanari did not want to talk much about living in India, although her daughter pointed out that life in India was much better compared to living in Sri Lanka. Selvanari’s daughter complained that in India she was allowed to study but since returning have failed to gain admission in school.

*recyclers*; their decisions to repatriate were made by the Government of India in which they had little role. They felt the promises of the Government of India, ratified by the UNHCR, of a “changed Sri Lanka” were false.

*What Explains Return: Loss of “Home” or Identity?” — An Analysis of Return*

The patterns of political accommodation of Tamil returnees will depend on the outcome of the ongoing ethnic conflict in Sri Lanka. The armed conflict in Sri Lanka generated Tamil refugees in India. I have discussed a few ongoing possible outcomes in Part 1 of this chapter, with a detailed account of how Tamil sentiments can be accommodated. Equitable representation would accommodate the Tamil aims through various devolution developments. A certain degree of autonomy in the northeastern part of Sri Lanka is also desired. This indicates a shift in the Tamil rebel group’s aspiration to seek a separate state of Eelam as espoused by the LTTE leadership Prabhakaran; instead, a reduced-autonomous structure within the federal structure of Sri Lanka seems acceptable. At present, Sri Lanka’s polity, which remains fractured, has witnessed the longest period of ceasefire albeit under serious allegations of ceasefire violations,<sup>263</sup> and it faces renewed conflict between the LTTE and the SLA.

I advance certain claims based on the testimony of returnees that visions of “home” influence the motivations of refugees at some stages, but in the final analysis it is the motivation of the asylum states that led to the repatriation of refugees at certain times. Historically, repatriation had occurred with promises of political accommodation of Tamils by the Government of Sri Lanka, with the cooperation of the Government of India

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<sup>263</sup> According the Sri Lankan Government’s Secretariat for Coordinating Peace Process (SCOPP) 2002-2005, the number of ceasefire violations committed by Government of Sri Lanka was 144 and that of LTTE was 3186.



(discussed at length in the previous chapter). The repatriation of Tamil returnees in the mid-eighties, nineties, and in 2002 occurred during the peace process and with the possibility that Tamil demands would be accommodated, either with respect to representation or homeland. While in the earlier section I have clearly stated the nature of such accommodation made by the Government of Sri Lanka and LTTE, in this section I assess the degree to which such demands have affected the rehabilitation of Tamil returnees, particularly in conjunction with the factors that influenced refugees' decisions to repatriate. Since the 2002 ceasefire, many Tamil returnees had reasons to be optimistic about rehabilitation. During the interviews, some respondents remained quite optimistic, while others who had remained in welfare centres since the mid-eighties had little optimism.

The reconstruction of returnees seems to be intrinsically linked to the accommodation of Tamils in Sri Lanka. Most refugees did not closely follow the peace process but appeared keen to know the outcome of the ongoing conflict. Despite staying in welfare camps, very few returnee-refugees have been allowed to return to the rebel-dominated part of Sri Lanka. One of the basic differences between "home" and the country of refuge was the nature of control imposed by authorities over mobility, food, attitude, and so on. Once refugees returned to Sri Lanka, few anticipated there would be a restriction on their movements. Returnee-refugees were forced to use a pass system to gain a certain degree of mobility outside the camps.

Another difference between *Narratives I* and *II* is the refugees' inclination to the idea of returning. Returnees from after the 2002 ceasefire are optimistic about a solution to the Tamil situation in Sri Lanka. The repatriation that occurred in the mid-eighties, nineties,

and 2000 seems to coincide with the character of India-Sri Lankan relations at the time (this has been discussed in the previous chapter). The first wave of repatriations occurred soon after the signing of the Indo-Lankan Accord, on the basis of which the IPKF was dispatched to facilitate the process of peacekeeping in Sri Lanka. Opinions were quite hostile regarding India's role in the conflict, especially in light of role played in sending the Indian Peacekeeping Force. Some returnees were happy that India has a minimum role at present. Since the testimony was drawn from a cross-section of returnees chosen randomly from different welfare centres, the general consensus is that few seemed happy to have returned to Sri Lanka based on false expectations.

Most literature in refugee studies suggests that refugees wish to return to their country of origin because they wish to be "home." The literature makes no distinction between the act of repatriation of the refugees and the actual process of returning to the place of origin or habitation.<sup>264</sup> Countries of asylum and refugees have various reasons to seek repatriation. The desire of the refugee population to return to their countries of origin has been associated with the problem of "placelessness" (de Wet 1995) and the refugees' loss of cultural space and identity (Cernea 2000). Some refugees repatriate to their country of origin due to exilic biases (Chimni). Others repatriate because it is "home." Drawing on anthropological literature about the meaning of "home," I argue that repatriation has little to do with "home" as perceived by some scholars and that, in some instances, the idea of "home" and reasons for repatriation are intertwined. It is in the absence of status and recognition that refugees turn to "home" as a place to belong. I will establish claims and

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<sup>264</sup> There is a difference between repatriation of refugees and actual return to place of displacement: repatriation seems to be the logical end of the refugee cycle, whereas I have argued that it is with the actual return to the place of habitation that repatriation will work.

counter-claims made by various schools of thought and reiterate the best explanation for refugee behaviour based on the testimony of returnee-refugees in *Narratives I and II*.

Some scholars associate the displacement of refugees with the de-territorialization of the identity of the refugee population. In such instances, refugee communities become attached to or cluster around remembered or imagined homelands and places in order to reaffirm their identities by reinforcing it through an actual return. The meaning attached to an imagined homeland is immense. The remembered places serve as symbolic anchors of community for dispersed people while they are living a life of exile in another country. "Homeland" becomes one of the most powerful unifying symbols of mobile and displaced peoples. However, the exact nature of the relationship to homeland between the refugee population and their countries of origin may have been differently constructed in different settings. Malkki (1992) and others have argued that the link between the identity of refugees and their "home" has little to do with return. The identity of refugees should not be tied to a particular land (home) in order to define identity. While in exile, the de-territorialized identities of refugees are re-translated as an act of re-territorialization of identities as citizens in their countries of origin. Also, in a completely de-territorialized setting, the mere notion of home, though distant, as a durable fixed place remains "localized" in a social sense (Peters 1992). Malkki argues that social construction of identity should be separated from a physical reality and the de-territorialization of spatial relations. Refugees in exile tend to create an image of identity that is divorced from their current situation and from their place of origin.<sup>265</sup> The social identification and identity of

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<sup>265</sup> Finn Stepputat, "Repatriation and the Politics of Space: The Case of the Mayan Diaspora and Return Movement," *Journal of Refugee Studies* 7, nos. 2 & 3 (1994): 175-85; and Sidra Ezrahi, "Our Homeland, the Text...Our Text, the Homeland: Exile and Homecoming in the Modern Jewish Imagination," *Michigan Quarterly Review* 31, no. 4 (1992): 463-97.

refugees are constructed in asylum states and go beyond natural ties to their homeland. The basis of identity that is constructed based on memories have little to do with the actual reality of prevailing conditions in the refugees' homeland; therefore, the refugees' decisions to repatriate have little to do with the idea of "home."

Some scholars agree with the premise of "home" as a primary influence on the repatriation of refugees from their asylum states. Based on *Narratives I and II*, I agree that returnee-refugees can be involved in processes of emplacement in asylum states. Through stories and practices, refugees actively create new relations in asylum states. If given the opportunity, refugees who are living in exile could create their own idea of belonging and could claim to have no desire to repatriate to their countries of origin. Efforts could be directed toward refugees finding "home" to be their country of asylum rather than their country of origin, when refugees seek new identities based on their present location in exile. This would dispute claims that refugees are displaced or "uprooted" people without identities of their own with a need to re-engage in the asylum states to create new identities. Thus, it is highly debatable to claim that refugees are uprooted people in constant need of seeking roots and any form of attachment to "home."

While various scholars<sup>266</sup> have made claims and counter-claims about whether "home" is a factor in the decisions of refugees to repatriate, their claims overlook the role played by the asylum state that may motivate refugees to repatriate based on certain expectations

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<sup>266</sup> Coles (1985) points out that the concept of home includes more than a mere physical location but also a community associated with the place. Warner (1994, 165) challenges the assumption of the neat alignment of states, communities, physical locations, and home and argues that "it is relations with other people which ground man in his existence, and not the physical grounding of the individual and group within a given space." The link between home and physical location encourages the idea of return as a means of recovering a "home," a past that cannot be recreated yet that exists in the minds of displaced people. Also, there may be changes both within the refugee community along with the place of origin and its politics, but that may not prevent refugees from desiring to return to their "home." Kibreab (2003), though critical of the notion of "home" as an imagery concept existing in the mind of refugees, agrees that it influences the act of return.

that have little to do with "home" as such. Refugees are encouraged to repatriate based on the idea of reclaiming old ties and the chance to reinstate their status as citizens in their countries of origin. Therefore, repatriation occurs since refugees need to seek their own identity in their country of origin; this can be translated into action through repatriation. Home remains an idea connected through memory, yet it exists in one's physical location in the discourse of refugees. Most refugees do not have any distinctive idea of what "home" or its nature is, but they nonetheless feel compelled to repatriate. Refugees seek to find this "home" through the act of returning to their country of origin. Repatriation is meaningless if it does not translate into a return to "home." In the testimony of various returnees, the truth about repatriation becomes clear as they continue to live in a "state of transition" with no possibility of returning "home." Two schools of thought are presented here. The first (Coles, Karadawi, Attiya)<sup>267</sup> school of thought believes that "home" as a category remains an important factor in refugees' attempts to reinvent and seek reaffirmation of their identity. This school of thought believes refugees are uprooted people and that identity is tied with land. Thus, it is through the act of repatriation that refugees can resume their old identity that was lost while living in exile. The second school of thought (Warner, Malkki, Hammond, Allen and Turton, and others)<sup>268</sup> questions the relationship between the identity of refugees and the nature of their relationship with land. This particular school of thought argues that people cannot be inherently tied to territory. The return to one's country of origin should not be seen as a reaffirmation of the refugees' identity; rather, it appears to be linked to the choice of the countries of asylum.

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<sup>267</sup> Coles (1985), Karadawi (1985, 1999), and Attiya (1988) argue that the basic need of human beings is to belong to a particular "home" and community.

<sup>268</sup> Warner (1992, 1996), Malkki (1992, 1995), Hammond (1999), and Allen (1996) and Turton (1996) disagree with this premise; they claim that "the place attachment model" perceived "home" as a fixed place capable of exerting considerable influence on refugees' decisions to repatriate.

Also, displaced persons can seek to reaffirm their identity while living in exile and may create new identities through the process of emplacement.

The interviewees in Poonthoddam 2 would have liked to stay on in India, but their viewpoint seems different than the interviewees in Poonthoddam 8. This difference leads me to agree with the second school of thought: while refugees lack a universal understanding of “home,” this may or may not influence their decision to repatriate. The idea of “home” has a different meaning for each refugee group. Despite variations in testimony in the refugees’ narratives, they seem to be happy to have returned to their country of origin. Based on the refugees’ stories of *Narrative I* in Poonthoddam 8, it seemed apparent that most female refugees were happy to return. However, the act of repatriation had little to do with any notion of “home;” rather, in accordance with *Narratives II* in Poonthoddam 2, they were unhappy since some had been forced to repatriate, so “home” as a concept that failed to influence their decision to repatriate. In both *Narrative I* and *Narrative II*, refugees needed to belong and to return to their country of origin: “home” was the actual return to the place of displacement. Their inability to do so made returnees upset, and refugees in *Narrative II* preferred to return to the asylum state rather than stay in transit camps.

In addition to the relevance of “home” as a factor in refugees’ decision to repatriate, the outcome of the 2002 peace process weighed heavily on the minds of refugees. Based on the *Narrative I* testimony, it was evident that most returnees belonging to Poonthoddam 2 had been involved in the ethnic conflict in Sri Lanka. The period of ceasefire was the longest in the history of Sri Lanka, along with the cease in violence between the SLA and the LTTE. Some were reluctant to discuss the conflict, but had

followed it closely. Opinions were varied as to whether the LTTE was right to demand autonomy rather than complete separation from Sri Lanka. However, few would openly voice their disagreement due to a fear of retribution.<sup>269</sup>

From the perspective of the asylum states, certain other factors appeared common in all cases: the refugees were aware of what repatriation entailed, their desire to repatriate, and the implicit understanding that repatriation would automatically translate into a return “home.” Very few refugees had an understanding of what “repatriation entailed in addition to the concept of return” (Chimni 2003, 195-221).<sup>270</sup> Refugees realized that repatriation was a way out for asylum states, but some recognized that it was also a way for them to go “home.” Refugees living in asylum states have less political status than that of citizens. Their political status is equivalent to an “alien” or a “foreigner.” However, the entry of foreigners to countries is based on legitimate papers, whereas refugees are uprooted and forced to flee “home” due to an intense fear of persecution. Refugees who seek refuge in a country of asylum know that it is a temporary “home” and that when the situation changes in their country of origin, they are likely to return. In addition, “home” is an illusion or image that encourages refugees to repatriate; this is the focal point in determining relations between refugee communities and their countries of origin.

I have challenged the idea of “home” as a factor in refugee repatriation. As the testimony of interviewees from twice-returnees (recyclers) demonstrates, home can evolve in the mind of refugees. Though refugees revealed during the interview that “they

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<sup>269</sup> Some of the refugees interviewed clearly defied the role of LTTE in the conflict, but they did not want to be cited and preferred to be anonymous.

<sup>270</sup> Edward Newman and Joanne van Selms, *Refugees and Forced Displacement* (New York: United Nations University, 2003).

were stranded in state of transition” and that they were living another life as a refugee, they were interested in going back to their own “home.” Thus, refugees were able to make a distinction between different locations that appeared to be “home.” The connection between what “home” constitutes in the refugees’ memories and what “home” appears to be in reality was difficult to distinguish. Often “home” remains an illusionary concept in the mind of refugees especially during exile and can therefore in turn be a place to turn to in order to resume normal lives. According to the refugees, home—as it was imagined—was real at one level and this was reinforced by their treatment as outsiders in the asylum status since they had no political status and no entitlements. The obvious method to regain this status was to repatriate to their countries of origin. Thus, as an illusive factor, “home” figured quite highly in the minds of refugees and pushed them to return.

Nevertheless, it is also important to distinguish the nature of the refugees’ relation to home in order to understand why they feel compelled to return. Refugees do not hold any specific view on “home” as espoused by various scholars. Most refugees view “home” as a place where they may return, but also seem to find that “home” could be created in their country of asylum during exile.

Those who were twice-returnees or “recyclers”<sup>271</sup> had few illusions regarding “home” but still chose to be part of the repatriation process. The motivations in such instances were the need to belong to their country of origin and to reaffirm their refugee identity there. For instance, it was evident from K. Ganesh’s testimony that his family was willing to go back and was likely to do so at the earliest opportunity. The twice returnee-refugees

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<sup>271</sup> A pejorative term used to make a distinction between refugees who have been repatriated once, yet who continue to seek refuge in the same asylum states once situations in the country of origin have failed to improve.



were less attached to “home,” yet they repatriated to their country of origin. Most of these returnees were forthright in their acceptance of return as one of their few options. Among *Narrative II* and *Narrative I*, there was some variation in the refugees’ attachment to “home.” In *Narrative II*, the twice-repatriated refugees were less attached to a concept of “home” and repatriation did not necessarily include the ideas of returning to an actual place of habitation.

***Relocations of Tamil Returnee-Refugees in Madhukarai: A Successful Story of Repatriation***

Located in the Mannar district of Sri Lanka, Madhukarai provides a contrast to the above discussion, particularly in relation to *Narratives I* and *II*. It is one of the few areas allocated by the Government of Sri Lanka as a possible zone of resettlement for returnee-refugee families. The returnee-refugees resettled in Madhukarai had done so under the recommendation of the GA of Mannar, Sri Lanka.

In 2001, families were resettled in the government-controlled areas of Madhukarai in order to ease some of the burden on “packed” government-run welfare camps in Vavuniya. It was part of the special government-sponsored resettlement programmes offered to families living in welfare centres for a long period of time and who unable to settle in their own habitat in the near future; they were to be resettled through special programmes. This was managed with the close co-ordination with the Ministers of Rehabilitation and Reconstruction of North and Tamil Affairs of the North East (RRAN). The programme was launched in 2001 in the three districts of Jaffna, Vavuniya, and Mannar. Families living in welfare camps for more than five years were viewed as potential candidates of resettlement programme. It was targeted that the first group of

1000 families living in Welfare Centres (WC) in Vavuniya would be allowed to resettle. The first group of 340 families was resettled in the Mannar district. However, the relocation programme intended that families from high security zone areas or uncleared areas under the jurisdiction of the LTTE would be resettled in Jaffna, Mannar, or Vavuniya. Out of the designated 340 families resettled in Mannar, 100 families were resettled in Madhukarai, in the Nanaddan Division. Two hundred and forty were to resettle in the Musali Division (100 families in Maruthamadu and 100 families in Chilawathirai).<sup>272</sup> Families were resettled on a priority basis: those originally belonging to Mannar were given preference over others. However, it was necessary to have the right documents to make any claims.

One hundred refugee-returnee families resettled in Madhukarai. After eight to nine years in various transit camps, these families were relocated and resettled. In this task, the Offices of the Government Agents of Mannar and Vavuniya were actively involved in facilitating the process. The families were given the opportunity to resettle in different locations;<sup>273</sup> that is, in locations other than the exact place of displacement prior to residing in WC and fleeing to India. In some instances, families originally from Mannar were given preference over those residing in Jaffna or Trincomalee. However, there were allegations that the GA's office and Kachcheri were "resettling" refugees in neutral areas rather than allowing them to go back to their "exact place of origin," which in most cases

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<sup>272</sup> RRAN Update, April 2003.

<sup>273</sup> The families belonging to different regions of Sri Lanka other than Mannar were denied the opportunity to move into different areas. The relocation programme was adopted by the Government of Sri Lanka, as more and more returnee-refugees continued to live in the welfare centres with little possibility of returning to their actual place of habitation/ exact location of displacement. The GA in Mannar revealed that there were other programmes intending to relocate refugees to different areas of Sri Lanka, beside Mannar, but it was on hold, as the Sri Lankan government was yet to determine whether it was safe to relocate refugees to Jaffna, Trincomalee, and other areas.

were still war-affected areas. The Sri Lankan government appeared reluctant “in good conscience” to facilitate relocation to areas under the jurisdiction of the LTTE. In an interview, the GA pointed out that most of the resettled population originally came from Mannar.

Refugees living in Madhukarai were different from those living in transit camps. Ms. Vadival,<sup>274</sup> Vasantha,<sup>275</sup> and K. Amma’s<sup>276</sup> families were selected by the GA’s office to be relocated in Mannar. Some of these families were headed by women. The local NGOs provided assistance for income-generation programmes. The families were resettled in

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<sup>274</sup> Vadival and Kamela Devi, along with six other members returned to Sri Lanka on May 14, 1992, from Poornapurthy camp in Pallavi in Tamil Nadu. They lived in a transit/ welfare camp for 5-6 years. During this long period of stay in transit Vadival and Devi took various kinds of jobs and made a living with great difficulty. The family had to face lot of hardship while living in welfare camps. Vadival and Devi are not related but have been taking care of each other since their repatriation from India. The family now lives in a resettled area located in Madhukarai. Since their resettlement the family has been enjoying a different life. They liked living in Madhukarai. The local NGOs often took care of them. The family now has an acre of land on which they have built their “own house.” The family was resettled in 2001 and were living relatively better than other refugees in welfare camps. Also the family still maintained contact with old friends living in welfare camps. Since their lives seemed different from those living in the WC, resettled refugees were working toward becoming “citizens of Sri Lanka.”

<sup>275</sup> Krishna Swami Vasantha was 38 years old and lived with four family members, including her mother-in-law, in Madhukarai, Mannar. The family had been living in a transit camp for ten years and was later resettled in August 2001. She came back from India in 1992 and lived in Sithamparapuram for a brief period of time. Later, she moved to two subsequent camps for various reasons: Chauripata camp in Kadalur district, and Sithamparapuram camp in Vavuniya. Krishna returned to Sri Lanka because it was her “home.” According to Vasantha, home was always better than living in alien territory. In terms of assistance, the UNHCR was responsible in providing information, and refugees were more than willing to go back. The UNHCR was quite helpful to them in providing all kinds of assistance in terms of food, milk powder, and toys for children too. Vasantha was happy that her family was resettled in Madhukarai. Although she had difficulties while living in India and later in the WC, Madhukarai was “almost home.” They were able to move around freely, and the family often wanted to visit WCs. But the family was prevented from visiting the camp because of a pass system. The family was happy that they now could “earn their own living” and did not need to be dependent on the government for rations.

<sup>276</sup> Krishna Amma lived with her daughter, K. Kalaichavi. She has been living in India for 9 years and has had a difficult life. While in India, she lived in Avinashi Santhapate Camp in Chennai. She came back to Sri Lanka on May 15, 1992. At the time of the interview, she lived with five other members, including one older sister, her parents, and her brother. Amma has fond memories of India, but she was glad that her family was relocated in Madhukarai. This family was a “recycler” but was now living in Madhukarai. In 1990, they came back to Sri Lanka, only to leave once again. The family was well aware of the fact that refugees have certain rights and that they were well within their means to stay and go back to India. After 12 years of displacement they were finally resettled, and they were happy. Amma wanted to grow vegetables on the acre of land given to the family as part of the relocation package, even though the family mostly consisted of womenfolk; that did not deter her, however, from seeking help from local agencies to help her till the land. Amma insisted that since their relocation to another territory, “they almost feel at home.”

Madhukarai under the supervision of the office of Government Agent of Sri Lanka in August 2001, from the Vauppaulkulom camp in the Wanni area. Initially, the families lived in transit camps from 1992 to 1993 and were transferred to the Sithamparapuram camp from 1993 to 2001. They entered Sri Lanka through Trincomalee where the Vavuniya Khachari officials were present to greet them. Subsequently, they lived in a state of transit for nearly a decade, until they were resettled in Madhukarai. The families were given one acre of land per family, along with assistance provided by local non-governmental organisations; they were also provided with vocational training. Initial rations consisted of rice, wheat flour, salt, chili, and oil. In Madhukarai families were given the opportunity to reclaim their Sri Lankan citizenship. Families were provided with national identity cards that proved their status of nationality and allowed voting privileges. Most relocated families realized that living in Madhukarai would not be easy; therefore, they accepted various kinds of aid provided by different agencies. While discussing various issues with relocated returnees in Madhukarai, families always indicated that “they were the lucky ones.” Since 2001, families have been trying to be self-sufficient and earn their own livelihood. The village in Madhukarai in the Nanaddan division has provided a unique opportunity for families to resume and rebuild their lives with the help of the United Nations World Food Program Aid (WFP) The food for work programmes of the WFP and the United States Department of Agriculture (USAD) helped families to rebuild their lives and to build infrastructure through projects like jungle clearing, digging wells, and constructing their own houses. Another non-governmental organisation, ZOA (Zovis Ois Aisia), has been instrumental in providing assistance to these families. The organisation has provided families with housing and one acre of land

for each family. Other assistance and infrastructure has been provided by the WFP and the USAD. Most of the families lived on trapping or fishing, which did not provide a steady income.

Most families I interviewed had built houses on the land provided by the Government of Sri Lanka and had also used the plot of land for cultivation purposes. Since most of these families were able to show documents to prove that they were originally inhabitants of Mannar, the GA's office also looked after them. The Madhukarai resettlement can be seen as a possible solution to the existing returnee-refugee crisis in Sri Lanka. The Tamil returnee experiences in Madhukarai suggest that repatriation can be success if the Sri Lankan government were to fulfill the terms and conditions of the ceasefire agreement and facilitate the process of integration of Tamil refugees from India. However, in order to do so, the government needs to adopt policies of rehabilitation of Tamil returnees and manage their problems and reconstruction. In this aspect in an interview, the Minister of RRR, J. Jayewardene, discussed the reconstruction of refugees and possible relocation programmes in an interview<sup>277</sup> since a return to place of displacement seemed less feasible. Therefore, another option was to facilitate the process of relocation so that Tamil returnees would be "able to resume normal lives in home." The Minister asserted that one of the reasons there had been a decline in official repatriation since the ceasefire was the presence of large numbers of people in welfare centres. The negative experiences of relocated families were different from those who lived in welfare centres.

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<sup>277</sup> The Hon. Minister indicated that the Government of Sri Lanka was looking for a permanent solution either to resettle refugees in different parts of Sri Lanka or to relocate them. Given the growing numbers of returnees living in various welfare camps, the ministry had also discouraged further repatriation process from India, until those living in welfare camps were rehabilitated. J. Jayewardene, interviewed in June 2002.

To sum up, in this chapter I have discussed different narratives about the Tamil homeland and its impact on the accommodation of Tamil returnees in Sri Lanka. The nature of Tamil alienation and the subsequent armed conflict needed careful appraisal to understand the necessity of accommodation of Tamils. This particular issue seems to be intricately linked to the kind of state-building that took place during the postcolonial era in Ceylon. The debate on the postcolonial state in Sri Lanka and its lack of accommodation of minorities has been an issue of concern. Over a period of time, the mechanisms in place to protect minorities against “fluid majorities,” i.e., the Sinhalese, have subsided to pave the way for majoritarianism and overt policies of discrimination. Without necessarily understating the issue, ethnic conflict in Sri Lanka and the lack of Tamil accommodation remain an open-ended issue, especially with the role played by some external actors such as India. The postcolonial state of Sri Lanka inserted a wedge between the Sinhala majority and the Tamil minority in Sri Lanka. Some political parties attempted to balance the skewed relation, but no concrete steps were undertaken to address the basic sense of alienation of Tamils in Sri Lanka. As a result, armed conflict broke out between the LTTE and the SLA, when the LTTE demanded a separate Eelam (state) based on “original habitat.” While I question the motivation of the repatriation process of Sri Lankan Tamils to Sri Lanka, I have also analyzed why refugees are likely to return. However, I have focused on the Tamil returnees’ political accommodation only in Sri Lanka. Moreover, in all the cases discussed here, the Sri Lankan Tamils have been repatriated but are waiting to return to “home” or to join the homeland.

The refugees’ testimony indirectly emphasized the political outcome of the present conflict in Sri Lanka. Respondents were hesitant to speculate on the final outcome of the

conflict but seemed circumspect on homeland as envisaged by the Tamil rebels. It is a crucial juncture in refugee discourse (home and homeland), especially when most Tamil refugees became so as a result of the conflict. A solution to refugee rehabilitation also requires an understanding of the peace process and its impact on the reconstruction of Tamil refugees in Sri Lanka. In this chapter, I have addressed these concerns and the repatriation of Tamil refugees from India during the period of ceasefire and the de-escalation of violence and killing between the LTTE and the SLA. Thus, it is imperative to recognize that a permanent solution and the reconstruction of Tamil returnee-refugees require the successful resolution of conflict or, at a minimum, the continuation of peace efforts in Sri Lanka.

I have discussed the status of returnees in detail based on analysis of different categories of returnees, from those who repatriated for the first time to twice-repatriated returnees or “recyclers.” In most cases, it appears that refugees were inclined to repatriate from asylum states as the country of origin was “home,” so it represented a means by which refugees were able to regain their status as citizens. While discussing the motivational issues of repatriation, I question the exilic biases of refugee treatment in asylum states. Refugees in asylum states are treated as “aliens” without proper political status and are therefore encouraged to reaffirm their status through the act of return. As a category, “home” played an important role in refugee repatriation: it is a compelling category that encourages refugees to repatriate, as refugee identity is intertwined with location. While in exile, refugees are considered “uprooted” people; it is only through acts of returning that they are able to regain their own identity. While various scholars have explored the different meanings of home and how it may impact refugees, I focus on

the assumptions of home = nation = community (Warner 1994, 162). In doing so, I agree with Malkki's argument that refugees can create "home" in different locations other than their country of origin through emplacement. Thus, at one level, "home" seems to be the unifying factor in refugee repatriation, yet most refugees do not abide by a uniform notion of "home." While living in exile, refugees living in camps are more inclined to repatriate than those living outside camps. There is no doubt that "home" is a factor in refugee repatriation, but different refugee groups are likely to have different notions of home. Also, the nature of the relationship between refugees and their country of asylum is likely to determine whether refugees wish to repatriate to their country of origin. Most refugee literature considers that the refugees' stay in asylum states is temporary and, as part of the "natural order," refugees are encouraged to return to their country of origin to resume their old lives. I have argued that international refugee laws have set out broad guidelines for refugee repatriation that appear to be violated. Furthermore, if refugees were treated well they would be less inclined to return "home." Similarly, if home is based on an abstract notion of nostalgia or memories, refugees living in asylum states for more than six to eight years are likely to be attached to asylum states through the process of emplacement. Refugees eagerly await outcomes that would facilitate their ultimate return to "home." Some are treated as refugees within their own home states and are likely to seek refuge again in India as they continue to live without any rights and entitlements in their own homeland.

### ***Conclusion***

In this chapter I have discussed the post-repatriation context of Tamil refugees in Sri Lanka. Through a detailed discussion of returnee narrative, I investigated what



determines the integration prospect of Tamils, especially in relation to the accommodation strategies available to them. In this context, I analyzed the peace process and more specifically the two agreements the ceasefire agreements and the Tamil proposal to address the question of Tamil representation in the Sri Lankan politics. While I have addressed the issue of integration, I also assert that the pattern of repatriation in India was such that it followed the trajectory of peace negotiations in Sri Lanka. As discussed in Chapter 3, the repatriation of Tamil refugees occurred during periodic cessation of state-led violence or unilateral ceasefire of Tamil rebel group. Unfortunately, the postcolonial unitary state in Sri Lanka has failed to adequately address the political imbalance of Sinhalese and Tamil communities. The Tamil refugees are a consequence of the ongoing ethnic problems, so a permanent solution to the conflict would enhance the reconstruction process for refugees. Since Tamils were repatriated from India on the basis of the peace process between the LTTE and SLA, the Tamil refugees need to be successfully accommodated within the political structure of Sri Lanka. Incidentally, Sri Lanka has witnessed its fair share of peaceful negotiations but has not reached an amicable means of resolving the conflict. The Tamil refugees continue to be on the receiving end of the conflict, both at the onset of the conflict, when they are forced to flee, and when there are peaceful methods of resolving the conflict, since they do not necessarily complete the process. Therefore, refugees are twice caught in the crossfire and continue to exist in the periphery both in their countries of asylum and of origin.

## CHAPTER 5

### *Policies of Belonging in Bangladesh: The Chakma Refugees in the Chittagong Hill Tracts*

#### *Introduction*

At the time of its creation in 1971, the Bangladesh state pledged to uphold the secular-pluralist tendencies and retain the supremacy of the Bengali language, which promised to be all-inclusive of cultural and religious differences. The emphasis on creating a cultural identity was based on language as a method of accommodating diversity without giving into elite manipulations of individual community symbols of cultural identity. Soon after, in 1971, the manipulation began; this heralded the beginning of a new era of a divisive Bangladeshi-Bengali identity that demarcated the country along the lines of majority-minority groups. This new creation of hegemonic Bangladeshi identity and a nation based on religion was the result of the typical kind of Bengali nationalism in postcolonial Bangladesh. Gradually, some of these policies adopted by the postcolonial state in Bangladesh were a fair indication that there was a different pathway to move away from the composite Bengali identity (with more emphasis on language)<sup>278</sup> to religious

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<sup>278</sup> Alavi (1972) argues slogans of the Language Movement were drawn “overwhelmingly from villages and rural society,” as the educated urban population constituted only five percent of the total population. Alavi asserts that there were two traditions within the movement that constituted the basis: the existence of Bengali elite or “petty bourgeois” that offered its members positions in government or provide government strength, and second, the “rural populist traditions that expressed the frustration and aspirations of poor.” Although the two traditions were intrinsically intertwined, they remained quite distinct in their basic ideology. The educated elites aspired to join the ranks of other bureaucrats in new state of Bangladesh. The Language Movement of the fifties “embraced both traditions,” but the movement was brought forward under the leadership of Awami League. The League was under the leadership of Suhrawardy, the prime minister of Pakistan. Mujib (Suhrawardy’s protégé) was committed to elitist traditions, and the populist tradition in the League flourished under Maulana Bhashani. The elitist faction, with its stronghold in urban areas of East Pakistan, had absolute control over rural Bengal (Alavi 1972). The character of the League changed when factional differences broke out between elitist and populist traditions in 1957, over the issue of Suhrawardy’s foreign policies, which finally led to the ousting of Bhashani and other populist leaders. This resulted in elitists gaining ground with Awami League, which changed the character of the party.

interpretations (based on Islamic principles) of Bengali/ Bangladeshi nationality. The majoritarian state in Bangladesh constructed a conservative ideology in order to challenge the all-inclusive-pluralist Bengali characteristics in the Bangladesh state-nation. The problem of Jumma<sup>279</sup> refugees, a distinctive group of minorities in the Chittagong Hill Tracts (CHT), can be categorized as a fall out of the dominant-culture attempt to subjugate minorities as a result of state-building<sup>280</sup> process leading to massive displacement of population across international borders to India.

In this chapter, I investigate my second research question: Why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states, from the perspective of Bangladesh. Keeping the historical background in mind, I argue that despite the historical developments pertaining to the creation of Bangladesh,<sup>281</sup> the

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However, Mujib’s leadership (though elitist in belief) had a mass following that created a momentum in history to generate mass-based movement against discriminations faced vis-à-vis West Pakistan.

<sup>279</sup> The eleven ethnic groups were termed as hill people or as paharis. Together, the paharis share distinctive ethno-linguistics identities and are different from the people of the plains of Bangladesh (samathalbashis), or Bengalis in respect to social customs, food, dress, and agricultural techniques. In the 19<sup>th</sup> century, the chiefs of Chakmas (the Chakma Raja/ King), the Chief of the Marmas of the southern areas known as the Bhomong Raja, and the Chief of the Marmas of the northern area known as the Mong Raja, achieved hegemony over the other ethnic communities, as they were the educated and thus exerted considerable influence in the region. British authorities were the first foreigners to enter the region and bring about the slow process of modernization within the region. They carefully planned efforts to evolve a market economy and induce people to give up jhum cultivation and their unsettled life and to adopt cultivation by the plough. The Chakmas emerged as leaders among other ethnic communities and extended their influence over others. They instigated most of the rebellions and uprisings against the British colonizers. However, ethnic communities living within the region did not live in complete harmony; they were subjected to inter-ethnic as well as intra-ethnic conflicts and terrorizing raids from outside the region. Therefore, a separate police force called the CHT Frontier Police was raised under the Regulation III of 1881. The CHT hills had never been incorporated in a state until the British annexed it in 1860.

<sup>280</sup> Amena Mohsin, *The Chittagong Hill Tracts, Bangladesh*, (London: Lynne Publishers, 2003).

<sup>281</sup> The role of Bengalee bourgeoisie was quite distinctive, yet they did not constitute the exclusive category to advance Language Movement. Various scholars have argued about the role of Bangalee intelligentsia in the language and autonomy movements that followed in East Pakistan were different. The attitude of the Bengali bourgeois towards Bengali nationalism was one of “qualified support” (Alavi 1972). The autonomy movement in Bangladesh was part of the mass-led movement that promised pluralist mode of living – an all-inclusive to culturally similar groups, living in new state of Bangladesh. Though the intelligentsia had an elitist following, Bangladesh pledged to remain a secular and pluralist state. At one level, Awami League, despite its elitist ideology, evolved into mass-based movement, and on the other, Bangalee middle-class made political accommodation to carve out independent Bangladesh state, when they realized that most of their dreams would not be materialized with the independence of Bangladesh from East Pakistan.

distinctive nature of the state-formation laid the foundation of the dominant-majoritarian discourse that clearly prioritized the majority interest over minority groups, particularly the Jumma, and more specifically, the Chakma in Chittagong Hill Tracts. The process of overt centralization and the lack of accommodation of minority groups' interest in the existing state-nation discourse stimulated the persecution of Jumma people in the CHT region, leading to conditions of refugee flow into India. It is imperative to keep the history of Bangladesh in mind, as I assert that since the repatriation of Chakma/ Jumma in 1997, the policies of marginalization still continue, which explains the lack of accommodation of Chakma/ Jumma refugees in the Bangladesh polity, despite the signing of Peace Accord that explicitly aimed to address the question of the Jumma people. As discussed previously, Bangladesh promised to retain the supremacy of the Bengali language first and later proclaimed the status as Bangladeshi nationals, thus elucidating the criteria of belonging to be determined on the basis of language, rather than religion only.

There were three explanations for the creation of independent Bangladesh: the first version proclaimed that the existence of Bengali nationalism led to the creation of Bangladesh (Alam 1995);<sup>282</sup> the second version emphasized the economic disparities between East and West Pakistan, which contributed to alienation of Bengali, leading to the secession of Bangladesh; the third version was attributed to the failure of nation-state and the collapse of system integration within East Pakistan (Jahan 1972).<sup>283</sup> But none of the versions can explain why Bangladesh state-formation chose the majoritarian

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<sup>282</sup> S. M. Shamsul Alam, *The State, Class Formation and Development in Bangladesh* (London: University Press of America, 1995).

<sup>283</sup> Jahan Rounaq, *Pakistan: Failure in National Integration* (New York: Columbia University Press, 1972).

perspective. I contend that the Jumma<sup>284</sup>/ hill (indigenous people in Chittagong Hill Tracts) people are among the many minority groups in Bangladesh that have been disadvantaged since the mid-1970s primarily because of lack of state cognizance in upholding the secular-cultural identity of Bangladesh that promised equal status to Jumma, which was gradually diluted through imposition of conservative-religious identity of that of majority Sunni Muslim. Furthermore, my analysis of the position of Chakma returnees in CHT and discussion of patterns of accommodation in the post-peace period in Bangladesh, suggest that the present problem within the Chittagong Hill Tract was exacerbated through the constant marginalization of minorities in Bangladesh.

The chapter is divided into two sections: in the first section I discuss the nature of state-formation in Bangladesh and how it impacts on minority identity-formation and determines the role in the creation of Chakma refugees. I contend that the historical trajectory of marginalization in Bangladesh persists in post-peace repatriation framework, which challenges the integration prospect of Jumma returnees in Chittagong Hill Tracts, Bangladesh. In the next chapter (Chapter 6) I will compare the different strategies of accommodation to determine which returnee-refugee group has a better prospect of integration and assert that the Chakma/ Jumma refugees are in a worse position to re-negotiate better conditions of living as compared to the Tamils, despite the signing of a Peace Accord, as opposed to signing ceasefire documents, which was the path taken by the Tamil refugees. In this chapter, I reiterate the case of Chakma returnee-refugees to determine the prospect of integration in the post-peace, post-repatriation framework, especially in relation to the Peace Accord that had facilitated the repatriation of nearly 60,000 refugees from India. In section two, I discuss testimonies of Chakma returnees to

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<sup>284</sup> In this chapter I have used the terms hill people, or paharis interchangeably.

ascertain their political status. Based on the ethnographic data from Khagracharri and Rangamati, I discuss the impact of the politics of rehabilitation and reconstruction in post-Peace Accord Bangladesh, and I assert that while the state of Bangladesh has moved away from its secular-pluralist elements of syncretic Bengali identity to that of Bengali-Muslim identity, the present post-Peace Accord situation is more difficult than it was in the past.

### ***Bengali Identity v. Jumma Identity: In Search of Jummaland***

The language movement shaped the political trajectory in Bangladesh. The “Basha Andolan,”<sup>285</sup> or language movement, was based on a secular principle that determined culture as “neutral, non-religious and secular.”<sup>286</sup> It was a link between the middle-class and Bengalee<sup>287</sup> masses, unified on the basis of common Bengali language and culture. The essence of cultural politics prior to the formation of Bangladesh emphasized the linguistic difference between Pakistan’s preference of the Urdu language and East Pakistan’s vernacular identity based on the Bengali language. The legacy of the language movement paved the way for the secular ethos in Bangladesh polity and transformed the urban middle-class activism into mass-based politics, laying the groundwork of secular nationalistic political culture through effective use of language as a mobilizing tool. The

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<sup>285</sup> The Language Movement of 1952 was fought on the grounds that the Bengali language was to be given the same status as Urdu. The East Pakistanis belonged to the Bengali-speaking category, and they wanted Pakistan to restore Bengali as the state language along with Urdu language. But this proposal was denied by Pakistan, and that was the turning point in the history of Pakistan. It triggered the famous Language Movement, which generated awareness among the Bengalis and later paved the way for the Liberation Movement that finally led to formation of the new state of Bangladesh.

<sup>286</sup> The Language Movement paved the way for autonomy movement of the sixties. The sixties’ nationalist discourse was based on the assumption of economic parity between the East Bengal and West Pakistan and proposed what later came to be known as the Six-Points Programmes. It was the nationalist demands that culminated into the liberation war of 1971.

<sup>287</sup> In this chapter I differentiate between “Bengali” and “Bengalee.” The former indicates the language commonly spoken in Bangladesh and the latter in the community that speaks the language.

nature of Bengali nationalism declared itself as a “pluralist and secular state” with full protection accorded to its minority groups.

In Chittagong Hill Tracts, the Kaptai Dam<sup>288</sup> was one of the primary causes of displacement of paharis to India. Since the colonial period, the CHT region enjoyed Special Status, but in the postcolonial period, the Special Status under the Regulation Act of 1900<sup>289</sup> was abrogated, first through the creation of West Pakistan and later through the newly-created state of Bangladesh. In 1964, under a Gazette notification, Chittagong Hill Tracts region ceased to be an “Excluded area.”<sup>290</sup> The Jumma people<sup>291</sup> or Jumma nation refers to all original inhabitants of CHT;<sup>292</sup> that is, all indigenous groups, except the Bengali immigrants. The phrase was popularized by the Parbattya Chattagram Jana Samiti (JSS) a regional party of CHT under the leadership of Manabendra Larma

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<sup>288</sup> The construction of Kaptai Dam involved changes that affected various aspects of hill people’s lives. Some of these changes entailed some aspects of physical and cultural existence of paharis. “The dam converted a vast hilly region and valleys hitherto used by Chakma for horticultural activities cum gardening into a network of lakes,” that covered “253 square miles, 50,000 acres of settled cultivatable land which is about 40 per cent of the district’s total cultivatable area.” The dam construction had far reaching consequences as it displaced nearly 100,000 Chakma families. As a result, nearly 40,000 migrated to the neighbouring Indian states of Assam and Tripura.

<sup>289</sup> The Regulation Act of 1900, which was promulgated in May 1900, was comprised of a package of rules and regulations for the administration of CHT area. It aimed at protecting the rights, customs, traditions, local practices, peculiarities, and prejudices and thus preserves the cultural identity of hill people, who belong to a distinct Buddhist community. In accordance with this, the three chiefs called the rajas were responsible for collecting revenues on behalf of the British. For the hill people, the Regulation that was consequently amended represented a particular historical compromise between rights of the tribal and outside political control. The real significance was in relation to land. Rule 34 of the Regulation substantially restricted any possession of land by outsiders in the hill tracts, but failed to ban it outright, since an outsider could acquire land for plantation on commercial basis [Rules 34(b)], Residential purpose [Rule 34(d)], and Commercial purpose [Rule 34(e)]. But migration from outside, however, was prohibited; under Rule 52, no hill-man could enter or reside in the CHT without obtaining a permit from the Deputy Commissioner.

<sup>290</sup> See M. Ishaque (ed.), *Bangladesh District Gazetteers: Chittagong Hill Tracts* (Dhaka, 1971), iii.

<sup>291</sup> In 1991, the CHT had a population of 0.97 million, of which the hill people constituted 0.50 million and Bengalis 0.47 million. Eleven ethnic groups populate the CHT region: Bawn, Chak, Chakma, Khami, Kheyang, Lushai, Marma, Mrung, Pankho, Tanchagya, and Tripuri.

<sup>292</sup> The nature of administrative structure within the CHT region was different from the rest of Bangladesh. On the basis of customary laws, the three Chiefs represented the authoritative structure within CHT region. The Chiefs were treated as subordinate territorial lords, who owed allegiance to the British authority in Bengal. The Chiefs were the representatives of the state with centralized power based on principle of authority that was relative new in the region.

Chakma.<sup>293</sup> The initial cause of displacement in the sixties and the creation of the Kaptai Dam in Chittagong Hill Tracts gave way to a different kind of state marginalization. It was during this period that the concept of Jummaland came into existence. The idea of Jummaland represents the cultural plurality of the hill people in CHT, united against a history of oppression and marginalization from the majoritarian Bangladeshi state. The displacement and atrocities committed by the Bangladesh state led to the armed struggle in CHT. Jummaland symbolizes the hill peoples' aspiration to have a non-homogenous state that would accommodate cultural differences between different groups, as opposed to the prevalent state project of imposition of cultural homogeneity on a culturally diverse population. Jummaland is also the ultimate "homeland" of Jumma people residing in harmony and mutual respect of diversity among paharis.

The concept of Jummaland evolved from an aspiration to create a niche within the territorial boundary of Bangladesh. The creation of Bangladesh in 1971 did not change the fate of Jumma people, as their immediate future was tied to the secular ethos of Bangladesh. The secular Bangladesh gave into demands of the Bengali-speaking Muslim majority, which favoured a typical kind of nationalism over the prevalent syncretic-secular principles. The concept of Mujibism was officially announced after the independence by Tofael Ahmed, the chief political advisor to Mujib, in February 7, 1972, with a declaration that "both (socialism and democracy)... [are] the world's third ideology."<sup>294</sup> The Constitution of Bangladesh was adopted in 1972; it accepted the fundamental principles (nationalism, socialism, democracy, and secularism) within the

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<sup>293</sup> See Willem van Schendel "The Invention of the 'Jummas': State Formation and Ethnicity in Southeastern Bangladesh," *Modern Asian Studies* 26, no. 1 (1992): 95-128.

<sup>294</sup> *Dainik Bangla*, 2 April 1972.



state policies to protect minorities. Though the Constitution accepted the four cardinal principles, one of the articles (Article 9) of the Constitution stated:

The unity and solidarity of the Bengali nation, which deriving its identity from its language and culture attained sovereign and independent Bangladesh through a united and determined struggle in the war of independence, shall be the basis of Bengali nationalism<sup>295</sup>.

The state-building process in Bangladesh endeavoured to redefine nationality to the majority group and ethnicity of common people of Bangladesh. The Constitutional bill moved before the Constituent Assembly stipulated provisions related to Article 6, on citizens of Bangladesh “be determined and regulated by law.” But in the amendment, it was stated that “citizens of Bangladesh shall be known as Bengalis.” The interpretation of who is a Bengali laid the foundation of majority-minority discourse in Bangladesh. The JSS challenged the declaration and submitted a memorandum to the Constituent Assembly of Bangladesh to preserve the identity and integrity of paharis to which Mujib threatened to “swamp the CHT with the influx of one million Bengalees (sic).”<sup>296</sup> Manabendra replied in Constituent Assembly, “We have not approached [the authorities] as a people seeking compassion. We have come as human beings and therefore as men we have a right to live.”<sup>297</sup> Larma objected to the amendment and asserted that the people of CHT were paharis and thus were unlikely to call themselves as “Bengalis;” rather, they were non-Bengali speaking Bangladeshi. Therefore, Larma refused to endorse the Constitution and argued it in Parliament:

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<sup>295</sup> The Government of Bangladesh 1972, *The Constitution of the People's Republic of Bangladesh* (Dhaka), 5. Article 9 was later substituted by the Proclamation order 1, 1977.

<sup>296</sup> S. K. Dutta-Roy, “Appeal from Rangamati: Can India Save Bangladesh Tribes?” *The Sunday Statesman* (12 April 1987).

<sup>297</sup> For the full text, see the statement of Manabendra in the Constituent Assembly in *Gana Parishad Bitarka* 2, no. 9 (1972): 292-4.

You cannot impose your national identity on others. I am a Chakma not a Bengali. I am a citizen of Bangladesh, Bangladeshi. You are also Bangladeshi but your national identity is Bengali... They (hill people) can never become Bengali<sup>298</sup>.

Mujib's policies emphasized religion as an active part of the state-building. Mujib faced strong opposition from the left and the Islamic right,<sup>299</sup> leading to the assertion of religion in Bangladesh politics. At the same time in 1973, the Awami League won a massive electoral victory based on the notion of religious tolerance.<sup>300</sup> The electoral victory was viewed as a "referendum on four principles of state policy — nationalism, socialism, democracy and secularism." The party secured 73.17 percent of the votes cast and 292 of the 300 seats.<sup>301</sup> But there were claims and counter-claims on the "true nature of Bangladesh," and Bangladesh was to be a "Muslim Bengal;" that is, it was to be based on ethno-cultural distinctiveness, or it would remain a culturally diverse pluralist secular state. Some have claimed that the "Muslim Bengal" movement<sup>302</sup> emerged soon after liberation in 1971. These scholars claim that Mujib's policies had overtones of religious elements that challenged the pluralist basis of Bangladesh society. Mujib contributed to this process through the constant use of Islam in state affairs, "adopting ill-defined secularist goals," and seeking recognition from Muslim countries that had favoured Pakistan in 1971.<sup>303</sup> One such policy was replacing a television and radio programme

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<sup>298</sup> *Parliament Debates* (Government of Bangladesh: Dacca, October 31, 1972), 452.

<sup>299</sup> See T. Maniruzzaman, *The Bangladesh Revolution and Its Aftermath* (Dhaka, 1980), 169-75.

<sup>300</sup> Ali, Anwar (ed.), *Dharmanirapekshata* (Secularism) (Dacca, 1973), 86-7.

<sup>301</sup> *The Bangladesh Observer*, 8-10 March 1973.

<sup>302</sup> In an interview, Kamal Hossein the then-foreign minister states that the idea of Muslim Bangla came from a Radio Pakistan Broadcast on 17 December 1971. It has been claimed that in the broadcast, Pakistan welcomed the formation of Muslim Bangladesh and restoration of the 1940 Lahore Declaration, which envisaged "Pakistan as a federation of independent states." See "Region and Partition Bengal, Punjab, and the Partition of the Subcontinent," ed. Ian Talbot and Gurharpal Singh (New Delhi: OUP, 1999), 355.

<sup>303</sup> Syed Anwar Husain, "Islamic Fundamentalism in Bangladesh: Internal Variables and External Inputs," in *Religion, Nationalism and Politics in Bangladesh*, ed. Rafiuddin Ahmed (New Delhi: South Asian Publishers, 1990), 141-2.

called “Speaking the Truth” based on secular ethics with daily citations from scriptures of Islam, Hinduism, Christianity, and Buddhism, thus allowing equal opportunity to all faiths.<sup>304</sup>

Opinions vary on the true meaning and essence of secularism in Bangladesh. Secularism essentially viewed as “dharmanirapekshata” (religious neutrality) as opposed to the Indian perception of “sarbe dharma bhaba” (religious tolerance). There was no consensus on the exact meaning of secularism, but Mujib attempted to define it: “Secularism does not mean the absence of religion... No communal politics will be allowed in the country.”<sup>305</sup>

The varied and ambivalent interpretation of secularism was perceived by the hill people as a serious affront to their identity and existence. The paharis had faced various reprisals by the pro-Awami League factions<sup>306</sup> for their alleged role in the liberation struggle. The paharis were accused of providing safe haven to a number of Pakistani soldiers and rajakars after they were forced to surrender in December 1971.<sup>307</sup> The newly-created state of Bangladesh directed defence forces to “hunt” and deal with any elements of “anti-Bangladeshis,” and to end air forces the state undertook heavy bombing raids.<sup>308</sup>

There are two main schools of thought on the role of religion in shaping Bangladesh polity: the first group argues that the process of change had begun with the assassination of Mujib in mid-1970s; the second group argues that religion created a political space within the discourses of Bangladesh politics with Zia assuming control of Bangladesh.

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<sup>304</sup> See Talukdar Maniruzzaman, “Bangladesh Politics: Secular and Islamic Trends” in *Islam in Bangladesh: Society, Culture and Politics*, ed. Rafiuddin Ahmed (Dhaka: Bangladesh Itihas Samiti, 1983), 193.

<sup>305</sup> English translation of the speech, External Publicity Division, Ministry of Foreign Affairs, Government of the People’s Republic of Bangladesh, Dacca, 1972, 16-17.

<sup>306</sup> See A. Mahathero, 7.

<sup>307</sup> As mentioned during interviews in Khagracharri, 11-29 August 2002.

<sup>308</sup> As stated in interviews by various respondents in Rangamati, August 2002.

The state of Bangladesh followed the pathway of being more centrist with religion assuming centrality in Bangladesh politics. I contend that despite problems in defining the cardinal principles of secularism, certain changes were evident during the era of Mujib that strengthened the nation-building in Bangladesh along majoritarian lines and that consistently undermined minorities. Since there was no consensus on the meaning of secularism, arguably some found it difficult to accept complete religious neutrality, or some relegated religion to the position of being a private matter. Murshid (1999, 354)<sup>309</sup> argues that the lack of a proper definition added to the existing dilemma of the Bangladesh nation-state.

Even the Constitution of 1972 left the role of religion in Bangladesh politics quite open-ended; in the Constituent Assembly, M. P. Larma had emphasized that the Bangladesh Constitution did not provide special rights to the paharis in CHT and pointed out that paharis wanted to be part of Bangladesh in the spirit of togetherness of history and separateness, but they needed to be acknowledged in the Constitution. Yet none of these aspects were respected, and the Constitution failed to provide a special arrangement in the exercise of pahari rights.<sup>310</sup> Moreover, the Constitution of Bangladesh failed to accept the people of CHT as “special category of people” and attempted to consolidate its position by being more centrist and exercising discriminatory politics against minorities. Article 1 of the Constitution declared Bangladesh to be a unitary state ruling without the possibility of a separate legislature or autonomy for CHT. Article 3 specified Bengali as the state language, and Article 6 declared the citizens of Bangladesh were to be known as

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<sup>309</sup> Tazeen M. Murshid, “State, Nation, Identity: Ideology and Conflict,” in *Region and Partition, Bengal, Punjab and Partition of the Subcontinent*, ed. Ian Talbot and Gurharpal Singh (New Delhi: Oxford, 1999), 347-375.

<sup>310</sup> Government of Bangladesh, 1972 *Bangladesh Ganaparishader Bitarka* (Debates in the Bangladesh Constituent Assembly) II, no. 9 (Dhaka): 292-96.

“Bengalis.” These provisions aggrieved the minorities who viewed it as the dominance of majoritarianism over minority communities. Bengali nationalism was viewed as “all-encompassing” from these perspectives.

The Jumma people sought alternative methods of representation to protect the special status of the paharis in CHT. The Constitution of Bangladesh had failed to accord special status to the hill people within CHT and had thwarted efforts directed at preserving the uniqueness of the cultural heritage of the hill people. The paharis continued sustained efforts through petition delegations, memoranda, etc. The dismissive treatment of the pahari people by the Government of Bangladesh is illustrated in the speech given by Mujib on the eve of first Parliamentary election in Bangladesh in February 1973; he declared that “paharis have been promoted to [the ranks of the] Bengalese,” and he asked them to behave as good citizens. Mujib promised to preserve the distinct traditions and cultures of the paharis.<sup>311</sup> But over a period of time, Mujib’s government actively pursued policies of “massive human settlement”<sup>312</sup> of samathalbashis, especially from the districts of Comilla, Noakhali, Barisal, and Patuakhali with large-scale re-settlement on a paternalistic model,<sup>313</sup> with free land distributed to new settlers along with full police protection in CHT. The military presence<sup>314</sup> became quite prominent in Dighinala, Ruma, and Alikadam<sup>315</sup> in anticipation of a long drawn out struggle on pahari issues. The JSS

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<sup>311</sup> *The Bangladesh Observer*, 7 February 1973.

<sup>312</sup> See *United Nations, The Community Development Approach to Land Settlement* (Department of Social Science and Economic Affairs, New York: ST/SOA/63, 1966): 1.

<sup>313</sup> *Ibid*, iii

<sup>314</sup> The nature of the relationship between the hill people and samathalbashis was determined based on the dynamics of migration patterns from plain policies under different governments. The inflow of people from the plain exacerbated the problem and threatened to reverse the pahari-samathalbashis ratio. The lawmaking mechanism within CHT region was not fully equipped to handle the onslaught of people moving into the hill areas of CHT. The Bangladesh Rifles (BDR) was sent to CHT with a contingent of 55 Mountain Divisions to stop anti-state activities in the CHT.

<sup>315</sup> See T. Maniruzzaman, “The Future of Bangladesh” in *The States of South Asia: Problems of National*

decided to put up a severe resistance and created an armed wing of JSS, the Shanti Bahini (SB) from Gana Mukti Fouz.<sup>316</sup>

The internal struggle over power in the JSS did not deter the hill people from fighting for their rights. The JSS broke away to form Tribal People's Party (TPP). The internal rivalry within the JSS and SB led to ideological divisions within the hill people's primary concern, and the movement splintered into two factions: one was led by Preeti Kumar Chakma (Preeti), and the other was led by Manabendra's younger brother, Shantu Larma. The SB intensified the struggle within CHT region; Mujib formed a Special Committee for the CHT (SCCHT) to make proper recommendations to the government<sup>317</sup> and appointed Mong Raja Shwe Prue Choudhury and Maung Raja Prue Sein Choudhury as governors of Banderban and Khagracharri, respectively.<sup>318</sup> There appears to be some basis to the claim that during later years, Mujib attempted to pacify the hill people through local representation and other political rights. Both Manabendra and Rajmata Benita Roy were part of the delegation that submitted a four-point charter of demands to the Prime Minister's public relations officer. The basic four points constituted the basis for their later demands. The four-points were: a) CHT shall be an autonomous region and shall have a legislature of its own; b) To preserve the rights of the tribal people such statutory provisions in the constitution shall be made which would be similar to the CHT Regulation of 1900; c) The offices of the tribal Rajas shall be preserved; d) There shall be provisions in the constitution that would prohibit any constitutional amendment or change

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*Integration*, Essays in Honour of W.H. Morris-Jones, ed. A. J. Wilson and D. Dalton (London, 1982), 270.

<sup>316</sup> Chinmoy Mutsuddi, "Parbattya Chattagram Ashanta Keno?" (in Bangla), in *Bichitra* 13, no. 2 (1984):

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<sup>317</sup> *Arthaniti*, 13.

<sup>318</sup> *The Bangladesh Observer*, 17 July 1975.

relating to CHT. But the process came to an abrupt halt when Mujib was assassinated in a coup in August 1975.

### ***Rise in Religious Authoritarianism and Generation of Chakma Refugees in India***

The ideological shifts among the governing elites in Bangladesh had larger implications in Bangladesh politics. The initial state project of homogenizing the people of Bangladesh under the banner of Bangladeshi nationalism did not gain ground but later, during Zia's regime, forced nationals of Bangladesh to assert their Bangladeshi identity, which emphasised the Sunni Muslim identity as opposed to syncretic Bengali-Bangladeshi identity. The citizenship process in Bangladesh was gradually truncated into a two-pronged approach, which ultimately nullified the existence of the other. In order to be a national of Bangladesh, i.e., Bangladeshi, one had to choose between the religious or the secular identity. The Bengali language was viewed by the statist as the homogenizing tool and part of Islamization process. The Bengali language, as spoken in Bangladesh, was seen as a threat to the state-project of homogenization, along with attempts made by the Government of Bangladesh to distinguish it from the language spoken in West Bengal (India). Soon the identities of citizens of Bangladesh were reducible to Muslim/Bangladeshi or Bengali (Murshid 1999). The religious component of Bangladeshi identity gained more credibility towards being Bangladeshi as opposed to the composite Bengali identity. Some viewed linguistic nationalism as a threat and attempted to bring it under the domain of unified forces of Islamic state in Bangladesh. The secular/ pluralist tendencies of the state of Bangladesh paved the way to a majoritarian understanding of citizenry that excluded a large number of populations who preferred to retain the cultural

identity rather than the identity based on religion. The initial commitment to socialism dissipated to various authoritarian challenges and tendencies of following regime.

The Constitution, too, underwent radical changes; one such change was directly related to the secular principles of Bangladesh. It was replaced with the Islamic principle:

The principle of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice together with the principles derived from them...shall constitute the fundamental principles of state policy<sup>319</sup>.

Some of these constitutional changes had a lasting impact on various policies related to minorities in Bangladesh. Article 9 of the 1972 Constitution emphasized the linguistic and cultural unity of “Bengali” nationalism, but it was “reworded to stress Bangladesh nationalism.” The change in Article 6 claimed citizens of Bangladesh as “Bangladeshi” rather than “Bengalis.” The Bangladeshi nationalism retained some of the basic tenets of the linguistics and cultural ethos of the liberation movement but transformed it along religious lines. These constitutional changes set the tone of samathalbashis-paharis relations; it created deep fissures in the relationship, as it stated that “by nationalism all citizens of Bangladesh are Bengali” as well as changed the slogan, “Hindus of Bengal, Christians of Bengal, Buddhist of Bengal, Muslims of Bengal — We are all Bengalis.”<sup>320</sup>

The period of Zia-ur-Rahman’s (1976-1981) regime witnessed the Bangladesh state transformed into an Islamic state, with more emphasis on Islam as religion, while underemphasizing the Bengali language. With the ascendance of military power, the religio-political identity gained ground over the ethno-cultural identity. It was the political

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<sup>319</sup> *Constitution of the People’s Republic of Bangladesh* as modified in June 30, 1994 (Government of Bangladesh, Ministry of Law and Parliamentary Affairs: Dhaka, 1994), 10.

<sup>320</sup> *Banglaar Hindu, Banglar Khristan, Banglar Baudhdha, Banglar Musalman, Amra Sabai Bangali* (in Bangla), for reproduction see M. A. Bari, “Muktijuddher Raktim Smriti – Memoirs of a Blood Birth (Banimahal Prakashani n.d: Dhaka), 260.



strategy of Zia to form a state with more emphasis on Muslim majorities and to move away from India, once a close ally to Mujib. In addition to it being dropped from the guiding principles of the state, secularism was substituted with “absolute trust and faith in Almighty Allah,” and socialism was redefined to mean “economic and social justice.”<sup>321</sup> Article 12<sup>322</sup> of the Constitution, which included principles related to secularism, was deleted. A new clause was inserted in Article 25 of the Constitution: “the state shall endeavour to strengthen, consolidate and preserve the fraternal relationship between the Muslim states on the basis of Islamic solidarity.” Article 38 of the Constitution that stated that “no person shall have the right to form or be a member or otherwise take part in the activities of, any communal or other association or union which in the name or on the basis of any religion has for its object, or pursues, a political purpose”<sup>323</sup> was revoked to pave the way for religious-oriented parties to enter politics. The martial law imposed during this period laid the foundational structure for Islamic Bangladeshi identity as opposed to cultural Bengali identity.

In addition to constitutional changes, Zia was responsible for changing the demographic balance in the CHT region. There was an influx of settlers or samathalbashis from the plains areas of Bangladesh into the CHT region. Manabendra Larma was forced to cross over to India, where he remained in hiding for a long period of time. With Manabendra Larma crossing over to India, SB intensified insurgency activities on Bangladeshi Rifles present in the CHT region. The Shanti Bahini were viewed as a

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<sup>321</sup> *The Bangladesh Observer*, 22 April 1977.

<sup>322</sup> According to Article 12, the principle of secularism shall be realized by the elimination of a) communalism in all its forms b) granting by the state of political status in favour of any religion c) abuse of religion for political purpose d) any discrimination against or persecution of, person practicing a particular religion (Constitution of Bangladesh 1972, 5)

<sup>323</sup> *Ibid.*, 13.

serious political and military threat<sup>324</sup> to Bangladesh. Zia rejected JSS's claims of autonomy and pursued tough policies to curb insurgency in CHT. A few concessions were made to accelerate economic development: the reservation of seats for pahari students in various educational institutions, the setting up of Tribal Cultural Institutes, and the introduction of radio programmes for pahari communities. But the government continued to pursue settlement programmes to provide land and agricultural inputs<sup>325</sup> to Bangladeshis interested in settling in CHT; this pursuit led to nearly 30,000 Bengalee families settling from plain areas to the CHT region (the government project was to settle 60 million plain people).<sup>326</sup> According to the USAID, in July 1980 the Government of Bangladesh had decided to settle 100,000 samathalbashis in the first phase of the scheme,<sup>327</sup> and the Deputy Commissioner was authorized to undertake any possible actions<sup>328</sup> to facilitate the process. In addition to the existing number of people, the scheme promised to settle a further 500,000 persons in CHT so that they could be part of the "countervailing force" to the paharis.<sup>329</sup>

The period witnessed an intense process of militarization of the CHT region. The Government of Bangladesh expanded three new cantonment areas in Bangladesh. The Bangladesh army was stationed in various parts of CHT region: in Rangamati, Banderban, Khagdachhadi, Kaptai, and Sabautali. There was an upsurge in the number of

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<sup>324</sup> N. Maxwell, *India: The Nagas and the North East*, Minority Rights Group, Report No. 17 – New Edition (London, 1980), 14.

<sup>325</sup> See Maniruzzaman.

<sup>326</sup> When the family was first settled, it was given five acres of land. See Maniruzzaman, 24.

<sup>327</sup> Ibid.

<sup>328</sup> See Memorandum No. 66(9)/C signed by Saifuddin Ahmed, Commissioner of Chittagong Divisions, dated 4 September 1980. Also see Memo No. 1025(9)/C signed by Ali Hider Khan, Deputy Commissioner of CHT, dated 15 September 1980. A secret memo was circulated from the Commissioner of Chittagong Division to government officials of other districts that "it was the desire of the government that the concerned D[eputy] C[ommissioner] will give top priority to this work and make programme a success".

<sup>329</sup> See Maniruzzaman

police stations in addition to the creation of a naval base at Dhalyachhadi for the Kaptai lake area. During the early eighties, nearly 55,000 Bangladeshi troops were stationed in CHT.<sup>330</sup> By the late eighties, the CHT region had nearly 230 army camps, 100 BDR camps, and 80 police camps,<sup>331</sup> an armed Police Battalion, Reserve Police, an Armed Ansar Battalion, and a host of Village Defence Party camps. In all, about 35,000 men were deployed for counter-insurgency operations.<sup>332</sup> It meant that for every 20 people in the Hills, there was one security person.<sup>333</sup> The intense military presence in CHT was viewed by the hill people as a serious violation of the Regulation Act of 1900 in which the basic tenets that the hill people's culture and heritage were to be protected by the Government of Bangladesh. The Government of Bangladesh argued that the growing number of samathalbashis in CHT required the assistance of armed personnel for security reasons. It seemed that one required the other; hence, CHT witnessed a steady increase in samathalbashis on the one hand, and an increasing presence of armed personnel on the other. The marginalization of the hill people was aggravated by the preferential treatment of samathalbashis in the CHT region. The hill people had a lot to lose with the steady influx of people into the CHT region as the land-person ratio in CHT was adversely affected. The nature of jhum cultivation and the mode of living of paharis are quite distinctive from rest of Bangladesh, so the enforced assimilation was viewed as a threat to their identity and culture.

To sum up, during the eighties, the Bangladesh state set the tone for the development of the nation-state and the Bangladeshi identity. Bangladesh, though created on the basis

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<sup>330</sup> Brian Eads, "Massacre Feared in Bangladesh," *The Observer*, 15 March 1981.

<sup>331</sup> The CHT Commission, 1991, 40.

<sup>332</sup> See A. Mohsin 1997, 172.

<sup>333</sup> The CHT Commission, 1992, 4.

of linguistics nationalism, gave into the demands of homogenization of nation-building;<sup>334</sup> both Mujib and Zia's policies paved the way for majoritarian dominance over minorities, especially in the CHT region. Mujib and Zia were responsible for setting the tone of pahari-samathabashsis relations, but each pursued different visions of Bengali nationalism. Mujib began the discourse on Bengali versus pahari identity, wherein paharis were asked to claim themselves as Bengali. Mujib associated Bengali identity with true nationalism, encompassing all of the distinctive features of being citizens of Bangladesh. Zia's regime, however, created a different meaning of Bengali identity: Zia equated Bengali with secular identity and distinguished it from Bengali-speaking Indians; the present Bangladeshi identity represented the true Islamic Muslim Bangladeshi identity.

Later, under Ershad's regime (1982-1990), Bangladesh underwent intense transformations, and Islam continued to be one of the crucial pillars. Ershad largely followed Zia's policies of state-building and party-building, with economic policies focused more on privatization. In 1987, a coalition between the Awami League (which led eight parties) and the Bangladesh National Party (which led seven parties) led to massive demonstrations against Ershad's rule; the coalition was used as one of the identity markers of Bangladeshi nationality. In 1988, Ershad, through eight Amendments to the Constitution, incorporated Islam as the state religion of Bangladesh, ensuring that other religions could be practiced peacefully. The proclamation of Islam as a state religion divided Bangladesh polity along religious lines, which now co-existed with the Bengali identity. The moot point of the government was to reformulate Bengali syncretic-identity into that of Bangladeshi Islamic-identity. The paharis of the CHT region were

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<sup>334</sup> The policies of Mujib and Zia emphasized the religious dimension of Bangladeshi identity rather than accepting the need to uphold the syncretic dimension of Bengali-speaking nationals of Bangladesh as an accepted criterion of belonging.

increasingly asked to prove their status as Bangladeshi. In fact, with few exceptions like the reservation of seats in educational institutions, they were stripped of their special status.

The distinctive nature of oppression in CHT has been termed by many scholars as genocide or “creeping genocide” (Levene 1999, 339).<sup>335</sup> The militarization of the CHT region was one of the many reasons for the flight of Chakmas to India. The push-in strategies of settlers from the plains (samathalbashis) exacerbated the issue of identity of the paharis. Jumma people were forced to live in clusters of villages under military surveillance, which denied them access to common forests to sustain their livelihood and life integrity; persistent violence was committed against them. There were more than 13 major massacres between 1980 and 1993. Some of these killings were systemic atrocities committed against the people of the CHT region by the armed personnel present in the region to protect samathalbashis. One such instance was the massacre of Kaokhali Bazar, west of Rangamati, in March 1980. Under the pretext of pursuing Shanti Bahini, the army moved in and conducted massacres in 24 neighbouring villages, resulting in killing of 200 to 300 persons;<sup>336</sup> the violence included mass rapes, mutilation, and the desecration of Hindu and Buddhist temples. There were claims that local police and Bengali settlers were complacent in these atrocities, which suggested that the acts were premeditated.<sup>337</sup>

The early nineties witnessed the transfer of military power to civilian power. The military rule of Bangladesh ended in 1990, with Ershad transferring power to civilian administration. A coalition was created between the Awami League and the Bangladesh

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<sup>335</sup> Mark Levene, “The Chittagong Hill Tracts: A Case Study in the Political Economy of ‘Creeping’ Genocide,” *Third World Quarterly* 20, no. 2 (1999): 339-369.

<sup>336</sup> CHT Commission, *Life is Not Ours*, 17-19, 21-23.

<sup>337</sup> For details see Kaokali and Subsequent Massacres Anti-Slavery Society, Chittagong Hill Tracts, 55-66, CHT Commission, *Life is Not Ours*, 17-19, 21-23.

National Party, which resulted in Khaleda Zia's Bangladesh Nationalist Party winning the national election (1991-1996), but the victory had little bearing on the internal matters in the CHT region. There were quite a few massacres including the Logang<sup>338</sup> village massacre in Khagracharri in 1992, which resulted in more Jumma people fleeing the CHT region. Another incident was the abduction of Kalpana Chakma, a member of the Women's Federation, from Baghachari in 1996.<sup>339</sup> In 1994, official settling-in policies ended; at that point, the Bengali population in CHT numbered 468,825, or 48 percent of the region's total of 967,420. Also in the three districts of CHT, Khagracharri and Bandarban settlers outnumbered Jummas.<sup>340</sup> Due to state-sponsored terror, as many as 60,000 hill people fled to India, and all those who were left behind in the CHT region lived under constant fear of death and destruction. The exact number of deaths was difficult to ascertain, but an official estimate was that about 1,100 civilians and 236 insurgents were killed in the war during the period of 1979-91.<sup>341</sup>

Over a period of time, paharis had to submit to the will of the Bangladeshi nation-state and accept their relocation into *joutha khamars*, where their fate was to be determined by the Bangladesh Defence Forces (BDF).<sup>342</sup> Various governmental policies, some initiated by Mujib, indicate that the paharis were already feeling alienated and Zia's regime continued to persecute the paharis relentlessly. Moreover Ershad's government annulled the 1900 Regulation Act, which left the Jumma with few rights. If the policy

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<sup>338</sup> *Survival Action Bulletin*, May 1992.

<sup>339</sup> "Kalpana Chakma Remains Untraced," *Earth Touch* (February 1997): 21-22.

<sup>340</sup> M. Mufazzalul Huq, "Changing Nature of Dominant Social Forces and Interventions in the CHT," *Journal of Social Studies* 56 (April 1992): 82 and CHT Commission, *Life is Not Ours*, 1994 update: 8, 99.

<sup>341</sup> See Shelley 1992, 124, 154.

<sup>342</sup> CHT Commission: *Life is Not Ours*, 16.

were “encapsulation,” then it would be more appropriate.<sup>343</sup> The presence of armed personnel in CHT region made it difficult for paharis to lead normal lives.

To counter the majoritarian state of Bangladesh, Jumma nationalism came into existence based on the concept of Jummaland. Jummaland was a conglomerate of 12 or 13 pahari communities and represented the “homeland” of Jumma people, less so in a territorial sense since it asserted the distinctive ethnicity and identity of Jumma people. The groups accepted their distinctive cultural and historical heritage vis-à-vis each other, and they shared a common perception of Bengali settlers, so they formed a united front against the state of Bangladesh. Jummaland was the “home” that paharis wanted to create and finally return to once they (those who had fled to India) repatriated from Tripura to CHT. In reality, Jummaland was to be “home” for refugees to return to after they had lived in India for nearly 14 years. However, in reality Jummaland was a counter-hegemonic strategy against the state hegemony of the dominant culture of Bangladeshi state. Schendal (1992, 2000) and Levene (1999) have argued that such efforts of the Jumma community to create statehood within the CHT region seemed to be more in discourse than in reality.

### ***Impact of Peace Initiatives and Reconstruction of Chakma/ Jumma Returnees***

Since the seventies, the push-in strategies in CHT have led to Jumma people fleeing their homeland and seek refuge elsewhere. The Bangladesh military created zones of settlement in the form of Cluster Village (Guccha Gram), Peace Village (Shant Gram), and Big Village (Bara Gram) to demarcate the settler population and those of Jumma

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<sup>343</sup> See Robert Paine, “The Claim of the Fourth World,” in *Native Power, The Quest for Autonomy and Nationhood of Indigenous Peoples*, ed. Jens Brosted et al. (Oslo: Universitetsforlaget AS, 1985), 49-66.

people. The Chakma/ Jumma refugees repatriated from India had to abide by the rules set by the Bangladesh military in CHT. The repatriation was based on the Peace Accord brokered between the Jumma Refugee Welfare Association and Government of Bangladesh, which resulted in repatriation of nearly 60,000 Chakma/ Jumma from Tripura.<sup>344</sup> The process of implementation of the Accord involved identification of Jumma people, now known as the internally displaced persons; de-militarization; and rehabilitation of Chakma/ Jumma refugees. In this section I discuss the political status of the Chakma/ Jumma returnees in the Chittagong Hill Tracts since repatriation in the late nineties, and I assess the present situation in post-peace framework. I argue, first, that despite the “successful” brokering of a peace deal between the two parties, the Chakma refugees are far from being rehabilitated in their homeland, largely due to the failure of Bangladeshi state in accepting the Jumma back in CHT; second, some of the major terms and conditions of the Accord have not been fulfilled by the Government of Bangladesh and appear less than likely to be translated into action, such as the complete de-militarization and transfer of land deeds and homestead to Jumma returnees, especially those presently occupied by settlers. Thus the successful reconstruction of Jumma refugees in Chittagong Hill Tracts is contingent upon a number of conditions: first, negotiating terms and conditions of the Accord that would be acceptable to both parties, namely the Government of Bangladesh and Jumma people; second, the Government of Bangladesh accepting and acknowledging Jumma people back in the fold of Bangladesh politics.

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<sup>344</sup> Government of Tripura, Chakma Profile, 1997.



Based on various testimonies of Chakma returnees in upazila (sub-districts) of Dighinala, Khagracharri, I contend that the postcolonial state of Bangladesh has failed to accept the Chakma/ Jumma returnees as complete citizens of Bangladesh. In the present context, the state of Bangladesh has failed to de-militarize CHT or to building confidence of the Chakma/ Jumma refugees from India. The bitter conflict and state-sponsored killings and massacres in CHT were responsible for the Jumma people seeking asylum in India; therefore, any solution in CHT and for refugees are contingent on full restitution of refugees from India and on the political accommodation of the Jumma people in the post-repatriation framework in CHT. Presently, the settlers and Jumma internally-displaced persons are jointly seeking rehabilitation packages from the Government of Bangladesh.

*Distribution of Settlers and Jumma Refugees in CHT*

<i>Hill district</i>	<i>Jumma families</i>	<i>Bengali settlers families</i>	<i>Total families</i>
<i>Rangamati</i>	35,595	15,595	51,111
<i>Bandarban</i>	8043	269	8312
<i>Khagracharri</i>	46,570	22,371	68,941
<i>Total:</i>	90,208	38,156	128,314

Source: PCJSS, CHT.

The first peace process began with the formation of a Tribal Convention in 1977 to negotiate the peace process between the government and the Shanti Bahini (SB). The Convention was empowered as an intermediary body without negotiating either on behalf of the Government of Bangladesh or on behalf of the Shanti Bahini. A four-point peace

plan was proposed with clear demands: to set up an autonomous region status of CHT, to create a Regional Council, to establish a separate Tribal Affairs Ministry, and to create a separate secretariat to help the President to take direct interest in CHT affairs.<sup>345</sup> But the plan resulted in further settling of Bengali-speaking people from the samathal to CHT; it also promised to release the Shanti Bahini leader, J. B. Larma (brother of M.P. Larma).<sup>346</sup> After the assassination of Zia, Ershad's regime revived the Tribal Convention in August 1983 and worked towards negotiated peace. A peace plan was once again formulated in October 1983; it promised to suspend settlers from moving from samathal areas of Bangladesh, offered amnesty to the SB militants, and began negotiations with JSS leaders to end the armed war.<sup>347</sup> The Ershad government went through various rounds of peace talks at different times. The committee held the first round of talks with the SB leadership in October 1985. Problems erupted during the second round, when the PCJSS put forth two preconditions before the talk: the recognition of autonomy as a political solution and the eviction of the Bengali settlers from CHT.<sup>348</sup> Incidentally, the Government of Bangladesh did not accept these preconditions, and the second round of talks was suspended.

The National Committee (NC) on CHT was constituted under the Minister of Planning in August 1987. The Committee held five rounds of meetings between the government and the PCJSS between 1987 and 1988. The PCJSS put forth the minimum acceptable programme to the government with little compromise on the five-point charter

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<sup>345</sup> Brig. Ibrahim, "Insurgency and Counterinsurgency: The Bangladesh Experience in Regional Perspective—The Chittagong Hill Tracts," *Military Papers* 4 (March 1991): 41.

<sup>346</sup> Ibid.: 35

<sup>347</sup> Mizanur Rahman (ed.), *The Chittagong Hill Tracts of Bangladesh the Untold Story*, (Dhaka: Centre for Development Research, 1992), 139.

<sup>348</sup> *Dhaka Courier*, 23 May 1997, 15.

of demands consisting of (a) autonomy for CHT with its legislature and constitutional recognition of the Jumma [Hill] nation's right to self-determination; (b) removal of non-tribal settlers who entered CHT after August 1947; (c) withdrawal of Bangladeshi security forces from CHT; (d) retention of the CHT Regulation of 1900 and a constitutional provision restricting any amendments to it; and (e) deployment of the UN peacekeeping force.<sup>349</sup> The 25 other demands put forth reflected the tough bargaining position of the SB leadership. The Government of Bangladesh made a counter-proposal and encouraged the National Committee to prepare a nine-point peace formula based on views of tribal people. The Committee emphasized the creation of District Councils along with the power to legislate (Shelley 1992, 141). But PCJSS rejected the scheme and insisted on regional autonomy as a basis to end the ongoing conflict between the PCJSS and the Government of Bangladesh. The PCJSS could not accept the unilateral measures of the Government of Bangladesh to create District Councils in 1989; as a result, it pulled out of the talks.

The PCJSS were brought back to the discussion table when the Bangladesh National Party assumed political power in the early nineties. The PCJSS retained the basic five-point charter of demands, which was revised in 1992. The revised charter was presented to the Committee with demands of regional autonomy for CHT with a Regional Council recognized by the constitution; restoration of land rights to the tribal people and the banning of allocation of land to the Bengalis from the plains; withdrawal of the military from CHT; constitutional recognition of ethnic minorities and a guarantee that their rights would not be altered without their consent; and withdrawal of Bengalis settled in the Hills

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<sup>349</sup> *The CHT Commission* 1991, 26

since August 17, 1974.<sup>350</sup> A stalemate was reached as the Government of Bangladesh perceived the terms to be problematic. On December 2, 1997, the National Committee's Chairman, Abdullah, and PCJSS leader, J. B. Larma, signed a landmark agreement, paving the way to end the long-drawn-out CHT war, resulting in seven rounds of talks<sup>351</sup> between PCJSS and the Government of Bangladesh. The agreement was a sincere attempt to create a compromise solution to the war. A major aspect of the agreement, to address the autonomy aspirations of pahari people, was seen through the introduction of a regional council system (formed by combining three existing hill district councils introduced in 1989). The Regional Council would be a multi-ethnic forum, wherein major tribes, including the Bengali settlers, were ensured representation. The members were to be elected indirectly by the elected members of the district councils for five years. The Regional Council was to coordinate the development activities of three district councils, supervise general administration and law-and-order in the hill districts, provide direction in the disaster-management and relief programmes, protect tribal rules, and promote social justice. The enactment of the law relating to the CHT region required the advice of the Regional Council. On financial matters, the Council was empowered to draw funds from the district council through revenues from property, receive loans and grants from

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<sup>350</sup> *Dhaka Courier* 25 July 1997, p. 12.

<sup>351</sup> The first two rounds (21–24 December 1996, and 25–27 January 1997) of peace talks were essentially an exercise in assessing each other's positions. Apart from the usual reiteration of both sides' commitment to peace, a decision to extend the cease-fire was also taken at the meeting. The third round (12–13 March 1997) of talks was more substantive as it focused on the tribal leadership's five-point charter encompassing 49 demands, which asked for a special administrative area status for the CHT and autonomy under a regional council system. This set the tone for discussions at the fourth (11–14 May 1997) and the fifth (14–18 July 1997) rounds of talks. Some of these demands were fiercely contested from the government's side because they asked for revision of the Constitution. Specifically, the land issue dominated the fifth round, and both sides appeared to have narrowed their differences. But, at this stage, they could not reach an agreement on the issue of withdrawal of the military from CHT and the extent of devolution to the regional council. Hence, much importance was attached to the sixth round of talks (14–17 September 1997), which achieved a breakthrough. Both the government and the PCJSS leaders prepared a draft agreement after four days of intense discussions and agreed to sign it at the next round of talks. The seventh round of talks, held on 26 November 1997, finalized the agreement.

the central government, and incur profits from various financial investments. The agreement promised to resolve the contentious issue over landholdings, and it required the permission of the Regional Council in matters of leasing, selling, purchasing, or transferring land in the Hills; however, in some cases the central government had exclusive power to arbitrate on land allotment. The demands of the PCJSS to evict the Bengali settlers were given up, and the compromise solution was that the government would maintain land records and ascertain the possession rights of tribal people. The implicit assumption was that the land would return to hill people and that ownership rights would be established. The government promised to conduct a Land Survey in CHT and resolve all disputes relating to land through proper scrutiny and verification in consultation with the Regional Council. For this purpose, another provision was added and the Land Commission was constituted under a retired judge.

The agreement ensured proper rehabilitation of refugees returned from India. The economic development of the CHT region was given priority by the PCJSS, and Shanti Bahini agreed to surrender arms within 45 days of signing the agreement. The government declared general amnesty to ensure the security of PCJSS members and their families. A rebel group broke away from the PCJSS; Preeti was promised amnesty and cases were withdrawn against them. Apart from soft loans to PCJSS members to start small-scale industries, restoration of previous employment prior to fleeing India was promised by the Government of Bangladesh. The government agreed to shut down all temporary camps of the security forces except the Bangladesh Rifles in CHT as part of the confidence-building measures between the PCJSS and the Government of Bangladesh. But the government insisted on the continued presence of the permanent

cantonments in three district headquarters to stay. Finally, the government agreed to set up a ministry on CHT affairs with an advisory committee.

In September 1998, the Government of Bangladesh announced the formation of the CHT Regional Council under the leadership of Mr Shantu Larma, the Jana Samhati Samiti (JSS) supremo. The JSS leaders refused to take charge of the Regional Council until May 1999 due to differences with Dhaka on a range of issues land, de-militarization, and representation. Besides the passing of the Bills for the District Councils and the Regional Councils in a controversial way, little has been done to implement the Accord. The returnee-refugees and internally-displaced Chakmas have not been rehabilitated. In accordance with the Accord,<sup>352</sup> the Government of Bangladesh promised to return lands to the refugees, but in reality many are yet to be reinstated and given possession of their land deeds.

The Task Force Committee was constituted in 1998 with Mr. Dipankar Talukdar, the Member of Parliament of the Rangamati Hill District as the Chairmen with 9 members; however, other than defining the term of “internally displaced person,” the Task Force did not play any role. The following definition of Internally Displaced Persons was adopted:

In the time from 15 August 1975 to 10 August 1992 (from the day of the Ceasefire) due to the conspicuous unstable and commotion situation of the Chittagong Hill Tracts (Rangamati, Khagracharri and Bandarban) the tribal people who has compelled to abandon their own village, Mauza, area and has gone or compelled to go others within the country will be considered as Internally Displaced Person.

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<sup>352</sup> The most salient features of the 1997 Accord/ Treaty are: decommissioning and deposit of arms by JSS fighters; the rehabilitation of the ex-combatants; the rehabilitation of the international refugees and internally displaced people; the dismantling of non-permanent military camps and the return of the soldiers to their regular barracks within cantonments and other specified permanent garrisons; self-government through district and regional councils and indigenous institutions; land and resource rights; and the recognition of the cultural identity of the indigenous people and their law and customs.

Despite this definition, the Government of Bangladesh, in a unilateral meeting held on May 15, 2000, included the Bengali Muslim settlers (viewed as illegal settlers by Jumma people) within the settlement packages along with the Chakma/ Jumma returnees from India.<sup>353</sup> The PCJSS and Jumma Refugee Welfare Association both protested strongly against the inclusion and boycotted the Task Force Meeting of September 22, 1999. In retaliation, the government declared 38,156 settler families as Internally Displaced Persons. Furthermore, the Government of Bangladesh had also circulated an ordinance to consider the outsiders settlers as Internal Displaced Persons on July 19, 1998 (Ref. No. S: L: B -78/98/185), which includes the Bengali settlers from the samathal areas. From the point of view of PCJSS, the inclusion of the Bengali settlers in the Internal Displaced Persons was a violation of the CHT Accord and inconsistent with the mandate of the Task Force's accepted definition.

#### *Jumma Refugees' Search for "Home" in Khagracharri*

In this chapter I have discussed the impact of peace initiatives on Jumma people. I now investigate how the continuation of the peace process affected the returnee-families residing in camps in Khagracharri. The Chittagong Hill Tract comprises of three hilly areas of Khagracharri, Rangamati, and Bandarban. The interviews were conducted in two upazila (sub-districts) in Khagracharri. Khagracharri district consists of eight upazila: Dighinala, Khagracharri, Laxmichari, Manikchari, Matiranga, Mohalchari, Panchari, and Ramgarh. Dighinala has many unions for local administration purposes, and Chakma/ Jumma returnees were living in makeshift camps located in Dighinala Upazila of

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<sup>353</sup> The government identified 90,208 Jumma families and 38,156 non-tribal Bengali settler families as "internally displaced families" and recommended a package programme.

Khagracharri. The Peace Accord laid down conditions of Chakma/ Jumma rehabilitation in Bangladesh. Unlike the Tamil refugees repatriated from India, the Chakma were able to negotiate better rehabilitation packages for themselves while they were still in exile in India. The Chakma anticipated a better rehabilitation package, which would facilitate the process of re-acquiring their identity as citizens of Bangladesh. The interviews were conducted in Dighinala, Khagracharri upazila of Khagracharri, and Rangamati. These refugees had been residing in make-shift camps since their repatriation in 1998.

The discussions (based on interviews) indicate a certain similarity of experiences among the Chakma refugees in Khagracharri. The following themes were common among returnee-refugees in Dighinala: first, the issue of citizenship; second, re-possession of land and homestead; third, freedom of movement; fourth, the stability of peace process and the impact of returnee-refugees on settlers living in Khagracharri; and fifth, the need to develop an understanding of customary laws in the CHT region. Based on the terms and conditions of repatriation, refugees were promised absolute reinstatement of rights and privileges in CHT. The refugees interviewed reiterated the poor conditions in CHT and poor governmental aid provided towards the reconstruction process. In the past, the “push-in” policies of the Government of Bangladesh, over a period of time, changed the “exclusive CHT region” to primarily settler-populated areas in Bangladesh. The first phase of push-in occurred during the Zia-ur-Rehman government, wherein samathalbashis were encouraged to migrate to CHT, with a few acres of land to cultivate and a homestead as incentives to settlers. The people were landless peasants and the prospect of owning land and houses increased the steady influx of people into the hill regions of CHT.



But it was the settlers of the 1970s and 1980s who posed a serious threat rather than the adivashis,<sup>354</sup> especially in relation their distinctiveness of hill people's way of life. The settlers of the early days had adapted well within CHT, unlike those who settled in the late seventies. However, in both instances the hill people lacked proper representation in the administration of CHT and had to accept the "tyranny of plain people."<sup>355</sup> CHT's first member of the parliament, M. P. Larma, had met with the prime minister and urged him to reconsider the majoritarian state-building policies on hill people. The policies of "Bengalization" of the hill people created fissures among citizens and paharis of Bangladesh. The new status of Bangladeshi citizenship was forced on them as a "compromise to their ethnic identity,"<sup>356</sup> an identity that had been protected by various special rights and privileges since pre-colonial time. The process of state-building in the newly created Bangladesh failed to include the heterogeneity within the Bangladeshi population. The minority communities within Bangladesh were urged to declare their identity as Bengali as opposed to the distinctive pahari identity as either hill people or Jumma people.

The Jumma people I interviewed were repatriated to Chittagong Hill Tracts from Tripura under the leadership of a former Member of Parliament, and a refugee in India, Upendra Chakma.<sup>357</sup> In an interview, Upendra Chakma expressed unhappiness with the

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<sup>354</sup> The paharis living in CHT differentiated between settlers penetrating the CHT in the eighties and those resettled in the early-sixties. The indigenous people moved from plain areas of Bangladesh in search of jobs, as farmers and traders in the early-sixties were well assimilated. The migration was initiated in the pre-colonial period that was accepted by the hill people and had no adverse effect on the relationship.

<sup>355</sup> As mentioned by an interviewee, August 2002.

<sup>356</sup> Interviews with Jumma returnees in August 2002.

<sup>357</sup> The interview was conducted in August 2002 in Khagracharri Sadar Upazila, Khagracharri CHT. Since the colonial period, the CHT was under the Regulation Act of 1900 that aimed to protect the indigenous people from the settlers and outside world. However, with the formation of new state of Pakistan, it was declared null and void, and in 1957 it was fully abrogated and settlers were encouraged to migrate to the hilly areas of CHT. Since CHT had adverse land-person ratio, the Chakma and other groups were forced to

Accord and the failure of Bangladesh state in implementing cardinal principles of the Accord, such as de-militarization and land re-distribution. Upendra Babu pointed out the political problems behind the Chakma displacement within and outside Bangladesh, and he claimed the people in CHT had to flee their “homeland” for various reasons in the past, but nothing was as strong and brutal as were the political killings during the late-1970s and early-1980s. The level of “dissatisfaction was so immense and daunting that the people belonging to CHT had learned to mobilize on various issues.”<sup>358</sup> The Students’ Organisation called Hill Students’ Association was able to mobilize the pahari community on issues of alienation and marginalization of rights of indigenous people.

The settlers from the plain areas moved into the hilly terrain disrupting the land-person ratio and demography in CHT. In 1981, 1984, and 1986 there were innumerable massacres in Khagracharri, Rangamati, and thousands of hill people were killed. The state-sponsored atrocities and brutalities committed by the police and the army led to mass killings and the destruction of property. There was a large number of indiscriminate mass killings and other violence. According to Upendra Lal Chakma,<sup>359</sup> the government of 1979-81 was responsible for masterminding these killings. It was during this period

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seek shelter elsewhere. Soon after the settlers were pushed in CHT region, the creation of a huge dam on Kaptai followed; it displaced thousands of Chakmas into India.

<sup>358</sup> Interview with Jumma returnee-refugees in August 2002.

<sup>359</sup> As asserted by Upendra Lal Chakma: the Indian state of Tripura had allocated six camps to provide immediate assistance to hill people of CHT. The six camps located in Tripura had total registered refugees of 74,000. Life in the camps of Tripura was quite bad, and they hardly had two-foot space sleeping areas. Each person was allotted a certain percentage of rations, and there were many restrictions on mobility of refugees in India. The rations consisted of rice, pulses, cooking oil, salt, dry fish, and some firewood; each person was entitled to 20 paise per day. The refugee groups were instrumental in constructing schools for the children living in the camps. However, since there were restrictions on their movement, refugees often had to bribe and hide from officials if they undertook any employment. Rations were quite irregular, and there were times when rations were completely stopped. It was under these circumstances that the Refugee Welfare Association was formed. The association was instrumental in exerting political pressure on the Government of India (when rations stopped), and with the help of the National Human rights Commission, the government was forced to renew ration privileges. However, NHRC was sympathetic to the cause, and thereafter the Association received 650 crore as compensation. The Indian government continued to pressure refugees to go back to country of origin and “withholding ration was one such mechanism.”

that a large number of settler populations were pushed into the hill areas from the plains of Bangladesh. The relation between settlers and the hill people was reversed. Gradually, more and more settlers were allowed to cultivate land that was under the control of the hill people. The police and the army moved gradually into the hill areas, under the pretext of protecting settlers from the “savage hill people.” The mass killings and constant threats led to large number of hill people, mostly Chakma seeking refuge in Tripura and Mizoram. Some Chakma and others were reduced to internally displaced persons in the CHT region. The policies continued, and their effect was evident when I interviewed the Jumma returnees in Dighinala.

Interviews with other returnees demonstrate that respondents were keen to return to CHT and not necessarily the Jummaland (the idea as opposed to the territorial concept). The Chakma/ Jumma idea of “home,” as the place of displacement lost during the period in exile, seemed optimistic that the Peace Accord would facilitate the process of return to “home.” But during interviews, I realized that the Jumma returnees were residing in various schools in Dighinala, Khagracharri, rather than leading meaningful lives in CHT.

The Dighinala School<sup>360</sup> was located close to army barracks in Dighinala, Khagracharri. Abik Chakma,<sup>361</sup> Kesab Babu,<sup>362</sup> Maya Debi,<sup>363</sup> Ani Debi, Alok Babu,<sup>364</sup> and

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<sup>360</sup> This particular school accommodated 108 returnee families in Khagracharri on August 2002. The 108 families were living in an old rundown school in Dighinala spoke in the absence of their leader.

<sup>361</sup> Abik Chakma along with his seven family members lived in Dighinala transitory camp located in Khagracharri. Batik's family was comprised of his elderly parents, his two siblings, and his own family. The family moved from India where they lived for nearly 14 years and were asked to leave as soon as people realized (in India) that conditions were conducive to return. Presently Abik earned a living by working as day labourer. Abik asserted that while living in India, some of his siblings were able to get some work and therefore making ends meet was not too difficult. Finding odd jobs in Tripura was not difficult either, although sometimes in order to get any odd jobs he had to bribe officials so that he would be allowed to go outside the camp and work. Nevertheless, Abik seemed unhappy that some of the promises made by the GoB have not been fulfilled.

<sup>362</sup> Kesab Babu was 55 years old. He lived with his family consisting of nine members. Kesab lost his wife in India. His son and his wife cared for him. They have been nice to him. However, Kesab does not have good things to say about the Bangladesh government. He was unhappy that land promised as part of the

Tithika Debi<sup>365</sup> lived in same school and were neighbours. Abik Chakma's family was encouraged to repatriate as part of the official repatriation process without the presence of a monitoring body, like the UNHCR, to assess neutrality and consent of refugees. The

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Peace Accord still remained an "empty dream." Prior to fleeing to India in 1989, Kesab was a schoolteacher, and while living as a refugee in Tripura he often taught refugee children. However, as part of the Peace Accord, full restoration of earlier status was promised to every repatriated refugee by the Government of Bangladesh. Kesab wanted his old job back, along with adequate compensation from the Government of Bangladesh. Members of Kebab's family were able to take care of themselves, as they were mostly SSC educated. But Kesab was not able to do the same for his youngest son, as he had not received an education similar to that of his other siblings. Kesab wanted three things from the government: land, dignity, and life away from the refugee-like existence.

<sup>363</sup> Maya Debi was 55 years old. Her family consisted of nine members. Maya Debi lost her husband in India after a long spell of illness. She now lived with her children and their family. She was repatriated in 1998 to Khagracharri along with her family. They have been living in the transitory camp in Dighinala since 1998. Maya Debi's oldest son and daughter-in-law have been resettled in another part of Khagracharri. However, her seven children along with their families were still living in the same camp since 1998. They have been leading a difficult life so far and would like to make a better living in Bangladesh. The family has been unhappy that the Government of Bangladesh did not provide adequately for them since their return. Maya Debi has met with many officials regarding the possibility of receiving compensation for the house and land left behind in 1988. Also as part of the Peace Accord, the Government of Bangladesh had made an agreement with the Jumma Refugee Welfare Association that each refugee family would be adequately compensated and given land, etc.; Maya was disappointed that the government had failed to adopt measures to remedy the situation. Maya has been proactive in resolving the compensation situation, but it appeared that the family might need to wait a long time. Maya Debi was quite optimistic regarding the outcome of the peace process despite being at the receiving end of the Accord.

<sup>364</sup> Alok Babu was 29 years old and lived with his wife and young son. Alok lost both his parents in Tripura. In 1990, he met his wife in the camp and married her in the camp. Although they lived in separate camps in Tripura, her father asked Alok to marry his daughter. Alok seemed happy to live a simple life with his wife and young son. Alok's son, Biswadeep, was born in India, and Alok hoped that he would be able to go back to India when he is older. Alok had a relatively good life in Khagracharri. He still remembered how the army people "rounded them" and they were asked to leave. Alok had a sister who was beaten by the armed forces, as she was part of the armed movement against army in CHT. But Alok preferred to leave the sad story aside. He was young when the family had to flee Khagracharri. His parents were forced to witness the harassment and loss of his sister, along with other people living in their locality. Alok married the daughter of the family that used to cultivate their land in Khagracharri. Alok did not believe in any class issues; he was simply glad that he had a family now, especially since the death of his parents. Alok was happy with his in-laws, who were hard working people and was thankful that they cared for him. Alok was however disappointed that Khagracharri had not changed much since 1988. Alok wanted a good life for his family, but he now believed that without proper work, it would be almost impossible to take care of them. His wife Bipasa was happy to be with Alok and did not want him to worry too much. She agreed that finding "good jobs" suitable for Alok seemed rather difficult. Most returnees seemed to be engaged in menial jobs, and Alok has not been able to adjust to it well. But Alok was optimistic that soon the Government of Bangladesh would be able to do something for him.

<sup>365</sup> Tithika Debi was 33 years old with three children under the ages of 14. Tithika's husband died in Khagracharri while living in Dighinala camp. Tithika has been living in transitory camp since 1999; they had lived in a different camp earlier. Prior to fleeing to India, Tithika lived in Dighinala and wanted to return "home." Tithika was disappointed that everything had changed so much and that the piece of land that belonged to her family was under the possession of a Bengali family. Tithika asserted that getting land back would not help much in cultivation, but if she had the piece of land, she believed that finding help to cultivate it may not be so difficult. Tithika did not care much for the peace process, except when it impacted her life.

family was unhappy that nothing had changed within Dighinala and continued to lead “a life of a refugee in CHT.”<sup>366</sup> Alok’s sister was a student and an active member in the PCJSS movement. Alok’s parents were well-to-do since they were landholders. The family had not had to worry about shortage of food or any other basic needs. Since their flight to India, Alok’s parents had to face a lot of hardship and were unable to cope with poverty and with the loss of their daughter. Ani Debi was 70 years old and lived with five of her children. Swapna, Ani, and Maya were from the same village in Khagracharri. The three women were neighbours in Khagracharri before fleeing to India. The families of Ani and Maya took care of Swapna when she lost her family during the massacre in 1988. Ani Debi lost her two daughters during the massacres; in her opinion “they were martyrs.” Ani Debi discussed at length the problem of CHT and how people from the plain did not know much about them. Ani expressed her unhappiness that “while we are dying nobody in Bangladesh cares for us.” Ani Debi was quite politically aware of the CHT situation, and unlike her neighbours, she did not show any optimism regarding the peace process. In her understanding, both the Awami League and the Bangladesh National Party “cheated paharis” and therefore little was expected of them. However, Ani Debi wanted to find out ways and means of “getting what was due from the government.” The government needed to apologize for the various massacres that took place, and up to now nothing “concrete has happened.” Given these situations, refugees seemed excited to be “home” and looked forward to be reinstated as citizens to be able to re-possess land and reacquire homesteads. But there were few visible changes in CHT; the land and homesteads were still under the possession of settlers, and the army continued their

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<sup>366</sup> As stated in an interview in 19 August 2002.

occupation. Most returnee-refugees were far from being resettled; there was an urgent need to find meaningful employment.

On issues of translating the Peace Accord into reinstatement of rights as citizens of Bangladesh, the interviewees were of the opinion that *continuation of peace* was an important factor in rehabilitating Chakma, which needed proactive role of the government through restitution rights. But the interviewees differed in their opinion on whether peace could be restored for the Jumma people, especially in relation to restoring their dignity as citizens of a secular Bangladesh. The interviewees concurred that unless the Bangladesh state withdrew the armed forces from the Chittagong Hill Tracts, none of the terms and conditions of the Peace Accord could be realized, and they reiterated that the negotiation on “peace seemed rather premature,”<sup>367</sup> and that the only meaningful method of resolving the ongoing conflict was to rehabilitate the Jumma refugees in the Chittagong Hill Tracts. The respondents further pointed out the present peace process had reached a stalemate, and the Government of Bangladesh needed to undertake meaningful dialogue with different actors to reinstate the Jumma people. Returnee-refugees complained of irregularity in food and ration distribution and of the lack of facilities such as schools and emergency medical care. Also, refugees anticipated that the problem of the hill people would be resolved soon, but if situations were not to improve, returning to India was another option for the Jumma people.<sup>368</sup>

The proper rehabilitation of the Jumma people was contingent on the realization of the terms and conditions of the Peace Accord; a successful reconstruction process

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<sup>367</sup> As mentioned during number of interviews in August 2002 “government chai na je aamra akenae bhosobash kori tai shanti basse din thakbe na.” Translated from Bengali: “The government does not want us here.”

<sup>368</sup> Based on interviews in Dighinala, August 2002.

involved following terms and conditions of the Accord. The Accord promised complete restitution of rights and dignity to Jumma returnees. The Accord was signed between the Government of Bangladesh and JRWA. The Refugee Welfare Association was called into various discussions to facilitate and encourage repatriation of refugees. Some Jumma refugees were repatriated on the basis of the 16-Point Package that promised refugee rehabilitation in CHT region. The Jumma refugees were repatriated in 1998 in two phases. The repatriation, conducted on an experimental basis, was to determine the safety of return of Jumma refugees and possible mechanisms of rehabilitation in CHT. The Jumma Refugee Welfare Association (JRWA), representing refugee groups, visited the CHT region to assess safe and conducive conditions to facilitate repatriation of refugees. The Association realized the internal problems in CHT were far from over and that the rehabilitation of refugees would be a difficult process. The members of the JRWA expressed concern to the Government of India, and later, on the basis of a 20-Point Package, refugees were repatriated. This particular phase of the repatriation was based on verbal agreement "within 24 hours of reaching CHT;" Chakmas would be able to regain their property, land (patta), and homestead. Though the 20-Point Package was an improvement on previous 16-point programme, Upendra Lal Chakma, the leader of the JRWA claimed that there was no visible difference between the two programmes. None of these terms and conditions had been fulfilled, and returnees received rations to live for the first year of their return to their country of origin. Most of the land, houses, and properties were under the control of settlers, and it appeared unlikely that returnees would be able to regain any of it back from them. Rations dried up in the first year, and the welfare association protested to the government that there was an urgent need of rations.

So far, only 25 to 30 percent of the returnees have been rehabilitated. Regarding the Peace Accord, Upendra Lal Chakma, in an interview asserted that the Government of Bangladesh needed to “rectify Jumma returnees immediately,” and that people needed to “return home” as full citizens.

“Home” to the Chakma/ Jumma people appeared to be a place that was located in CHT. However, since repatriation, they have been residing in camps without much support from the government. In terms of political representation, the Jumma refugees from India (primarily of Chakma origin) wanted full reinstatement of rights in Bangladesh. The status of Jumma returnees in CHT was tied into proper implementation of the CHT Accord. The Jumma refugees received written promises that once they were repatriated (as per Part D of the Accord), Jumma refugees would be rehabilitated with provisions of settlement of land with the landless Jumma people, the formation of the CHT Land Commission, and Settlement of Land Dispute.<sup>369</sup> Despite the specific nature of demands made by the JRWA, the Government of Bangladesh has been unable to fulfill many terms to the fullest extent.<sup>370</sup> Following the return of the first refugee group in February 1994, human rights groups in Dhaka conducted a survey that indicated 37 percent of the 42 families interviewed had not been able to reclaim their original lands. The Returnee Refugees 16-Point Implementation Committee stated that out of the 1,027

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<sup>369</sup> In accordance with the CHT Accord Part D addressed the issue of Rehabilitation, General Amnesty and Other Matters, such as the Repatriation of the Jumma Refugees; the Rehabilitation of Internally Displaced Jumma People; the Provisions for the Settlement of Land with the Landless Jumma People; the Formation of CHT Land Commission and Settlement of Land Dispute; the Provisions for Allotment/ Cancellation of Land for Rubber Plantation and other purposes; the Allocation of fund for development in the CHT; the Quota Reservation and Scholarship for the Jumma students; the Patronage to Tribal Culture, Traditions and Customs; the Deposit of Arms and Ammunition by the members of the PCJSS; the General Amnesty and Withdrawal of Cases; the Loan Exemption, Reinstatement in Service and Rehabilitation of Members of the PCJSS; the Provisions for Withdrawal of All Temporary Military and Paramilitary Camps; the Provisions for the Appointment of Permanent Residents with the Preference to the Jumma Candidates in Services of the CHT Region; and the Formation of CHT Affairs Ministry.

<sup>370</sup> As discussed in an interview with a government official in Khagracharri, August 2002.



families consisting of 5,186 individual refugees, 25 returnee Chakma refugees who had earlier been employed in various government jobs were not reinstated into the same jobs. There are number of returnee-refugee families in CHT whose lands have been misappropriated by the security forces and Bengali illegal settlers, and there are nearly 100 families whose land was under forcible occupation of illegal settlers from the plains.<sup>371</sup> However, the Ministry of CHT Affairs has been created, but the Jumma refugees felt that it had a long process involved before they could claim back land.

As per Clause 1 of Part D of the CHT Accord and the signing of the 20-Point Package Peace Accord between the government and Jumma refugee leaders on March 1997 in Agartala, Tripura India, nearly 70,000 Jumma refugees were repatriated to Bangladesh. Most of the economic facilities stated in the Accord, other than land and homestead, were provided to the refugees through the Task Force. According to the Chakma Chief Raja Devasish Roy, the Peace Accord still had many conditions to be fulfilled if “good faith” between the Jumma people and the government were to continue.<sup>372</sup> The Chakma Chief Raja asserted that the post-Accord situation in CHT seemed still in its inception stages.<sup>373</sup> During the interview, the Chakma Chief discussed at length the possible mechanisms of resolving these issues. According to the Raja, some of the basic terms and conditions (such as the rehabilitation of the Jumma returnees from Tripura, the formation of Land Commission, and the withdrawal of armed forces) needed to be implemented in order to restore good faith. The lack of infrastructure to address some of basic concerns of the

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<sup>371</sup> Memorandum of Returnee Jumma Refugees 16-Points Implementation Committee, Khagracharri, Bangladesh, 15 October 1996.

<sup>372</sup> Paraphrase of the interview with Raja Devasish Roy in Rangamati in August 2002.

<sup>373</sup> Based on interviews in December 1999 (email) and August 2002, in Rangamati.

Jumma seemed very disquieting, as both internally displaced people and Jumma returnees continued to live difficult lives in their country of origin.

In the preceding section I have discussed the context of returnee-refugee families in Dighinala, Khagracharri. Though refugees had been repatriated from India for a long time, they were still residing in makeshift camps and did not have adequate aid package from the Government of Bangladesh. Rather, refugees' initial reception did seem quite warm, but the non-implementation of the Peace Accord prevented their rehabilitation process in CHT, Bangladesh. In the next section I discuss some of these features in detail to facilitate understanding of the Chakma/ Jumma returnee situation.

#### *Jumma Returnees in Dighinala*

The basic concerns of the Jumma refugees were different from those of other refugee situations. Unlike the Sri Lankan Tamils, Jumma refugees were not engaged in the creation of Jummaland, at least not in terms of territory. Jummaland in essence represented the place wherein they would feel secure and lead "a life of dignity."<sup>374</sup> However, some of the basic concerns of Jumma repatriation, according to returnees, were yet to be fulfilled. The following section discusses the political concerns of Jumma refugees to assess their political position within the majoritarian politics of Bangladesh. Upon their return, Jumma refugees were concerned about their political rights in CHT, political representation within the strata of Bangladesh, the issue of amnesty, and economic support for their wellbeing. Jumma refugees were aware of their political standing vis-à-vis other Bangladeshis. Since the Constitution of Bangladesh did not specifically mention Jumma people as "citizens" of Bangladesh, they wanted political

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<sup>374</sup> A phrase often used by Jumma refugees "bhadro jibon jabor ke na chai?" August 2002.

status at par with any other citizens. While Jumma people were aware that the Regulation Act of 1900 was redundant, they sought protection in the form of land rights from the Government of Bangladesh.

The following are testimonies of Jumma returnees<sup>375</sup> repatriated as part of the experimental process in the mid-nineties. Various refugee groups living in different camps were repatriated under the leadership of Rabindar Chakma and Anirudh Chakma of Lebacharre camp, Upendra Lal Chakma in Takumbari camp, Prafulla Kumar Chakma and Hironmoey Chakma in Pancharan camp, and Jugantar and Prabhakar in Karbook camp in India. The refugees were promised resettlement packages with rations for a year, land, and employment opportunities. There were a few refugees repatriated on the basis of the 16-Point Package, as opposed to those repatriated on the basis of the 20-Point Package.

The returnee-refugees were repatriated from India at different periods. Some of them were repatriated during the early- or late-nineties. Refugees were involved with political movements in the CHT region indirectly, and they were consistent in their support. The Refugee Welfare Association in Tripura represented the interests of Chakma/ Jumma refugees<sup>376</sup> living in Tripura (India) from the mid-eighties to the early-nineties. The

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<sup>375</sup> These interviews were conducted in three camps in Dighinala, Khagracharri. The camps were located in Dighinala Residential Primary School that housed refugee families. The school was located in village Boalkhali, union Boalkhali, and Upazila/ thane Dighinala, district Khagracharri, CHT. The second school was Milonpur non-government primary school established by CHT Development Board, village Milonpur, and union Kobakhali, Upazila Dighinala. This school housed seven refugee families. The third school was Uttar Kobakhali primary school, village Milonpur, union, Kobakhali, Upazila Dighinala, district Khagracharri. The testimonies of these refugees provide a mixed reaction to the repatriation process as well as problems of rehabilitation.

<sup>376</sup> Jumma refugees had difficult lives in India, and mostly lived on dry rations, doles, etc., along with the few cents they received as part of the day-to-day expenditures. Both seemed inadequate for refugee families who accordingly put forth various demands to the local administration. In some instances, appropriate action was taken to rectify the situations. During the initial period of exile, refugees were not allowed to leave camp premises without "proper papers" from camp officials. They were given permission to leave camp area when officials received further notification from higher officials in Tripura. Under this system of

Association represented the political interests of refugees in India, especially during the negotiation that ultimately led to the repatriation of Jumma people to CHT.

Most refugees' accounts of fleeing from Bangladesh had a settler component in their role in the dispossession of land in CHT. The Jumma refugees' accounts<sup>377</sup> were tied to land rights in CHT region. Refugee families discussed why they fled from "home" but vehemently opposed the discriminatory policies of the Government of Bangladesh in declaring hill people almost "second class" citizens in Bangladesh. The ill-treatment of the hill people by the armed forces in the CHT region was coupled with elements of blatant discriminatory policies of the state of Bangladesh. The refugees were able to glean out elements of discriminatory policies of the state and its impact on hill population. The policy of continuity aimed to subjugate the "distinctive" characteristics of pahari identity. The leaders of CHT proposed compromises under a different political regime, but the rigid and conservative elements of the state policies favoured settlers over the hill people within the CHT region, which subsequently encouraged an armed struggle against the state of Bangladesh. Some of the hill people had to seek refuge when armed forces waged

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cyclical process of "officialism," refugees often had to compromise their plans to visit doctors or perform the last rites of family members living in different camps. However, some refugees also asserted during interviews that matters related to camps were under the "discretionary jurisdiction" of camp officials who had the final authority on day-to-day affairs within camps. Under such circumstances, refugees encountered different experiences and were allowed to leave camps upon proper request made to officials

<sup>377</sup> Regarding causes of refugee flows in Tripura, returnees were of the opinion that political uncertainties along with the sense of persecution created by the Government of Bangladesh were primarily responsible for refugees fleeing to India. Jumma people were persecuted at different phases in the history of CHT. The question of identity of the Jumma people and distinctive nature of way of life and ethnicity was intertwined with issues of larger questions like citizenship and land rights of such people within the exclusive territory of CHT. Consistent discrimination of the Bangladesh government created a deep sense of alienation among such people, which coupled with the presence of the army, created political unrest and havoc in the region. The presence of the army and the taking over of the Jummaland and houses for cantonment purposes were viewed with intense hostility. The settlers from *samathal* (plain areas of Bangladesh) were pushed in within CHT by the GoB. To this, the hill community viewed as a direct threat to their identities and culture. The hill/ Jumma people are proud of their identity, which is based on a distinctive culture and ethos. The army and the police entered the CHT region under the pretext of protecting settlers from Jumma people. Gradually they took over the land and areas within the vicinity of Jumma people for housing the settlers for the army cantonment.

a “reign of terror” on innocent civilians and massacred them; people from the villages were forced to cross the international border and enter the Indian states of Tripura and Mizoram. Initially, refugee groups stayed in temporary camps in Tripura and later moved to South Tripura where camps were more permanent in nature. There were nearly six camps in southern Tripura. Refugees in CHT were settled in temporary camps and were provided with assistance<sup>378</sup> and protection. In India, refugee families formed a welfare association to represent their interests to the Government of India and later to the Government of Tripura. Most refugee families had mixed opinions regarding the nature of rations and assistance provided by the Government of India. They unequivocally agreed that the Government of India had their best interest “in heart” as the Jumma Welfare Association constructed schools for refugee children, enabling them to go to school. Yet the refugee families alleged that the Government of India had withheld rations in order to “encourage refugees to repatriate to Bangladesh.”<sup>379</sup> The Jumma Welfare Association was able to bring different Human Rights Organisations to the region to create pressure on the Government of Tripura to continue rations until “situations were conducive to facilitate repatriation to Bangladesh.”

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<sup>378</sup> The rations received by repatriated refugees seemed inadequate, as they were entitled to a one-year period only. It was assumed that at the end of the year most of the Jumma returnees would have their land and homesteads back and that they would be properly rehabilitated. But land restoration has proven to be one of the many challenges that refugees face in Khagracharri. Most Jumma returnee-refugees do not have proper documentation to support their claims over any piece of land. However, refugees’ families claimed that such aspects were part of the discussion prior to repatriation. In accordance to the hill people’s customary laws, they did not possess documents to make claims over any land or homestead. The concept of proper papers or documents proving “patta” never existed among these indigenous people. However, since the repatriation to CHT and other regions of tracts, hill people have realized that lack of proper documents has put them at a disadvantage vis-à-vis claims made by the settlers. In addition to land deeds and rations, the settlers were provided full protection by the armed forces within CHT. Thus, the constant presence of army personnel was a cause of concern for returnee-refugees. Instead of creating a feeling of security, army presence in Khagracharri areas has generated a feeling of disquiet. The Jumma constantly worry about the nature of the discriminatory treatment of the police and the armed forces. The continued presence of the army makes Jumma refugees fearful and concerned about their status in Bangladesh.

<sup>379</sup> As stated by an interviewee in Dighinala, August 2002.

These are testimonies of some of the Jumma returnees, Lakhi and Pandop,<sup>380</sup> Anando,<sup>381</sup> Shreeti Debi, Panchalata Debi, and Kripa Babu. Lakhi and Pandop's families were repatriated in 1994 from Tripura to the CHT region as part of the first and second groups to be repatriated from India. In 1994, the first batch of refugees was repatriated from Tripura to Bangladesh. The repatriation process was based on many promises: first, the absolute restoration of land and houses to returnee-refugees; second, the provision of adequate services to those who worked prior to fleeing India. The employees were to be treated as senior, based on the period of exile in India (in some instances refugees had been living in India more than 10 or 12 years). The employment/ service file was to reflect the period of exile as the exact period employed by the Government of Bangladesh. The landless peasants were promised five acres of land, along with agricultural loans with low interest rates. Since their repatriation, refugees have been living either in camps or in transitory camps located in Khagracharri. Most of the terms and conditions of the agreement that constituted the basis of repatriation have not been fulfilled.

On the basis of the 16-Point Package, some refugees were repatriated to ascertain the efficacy of repatriation. During this period, the first and second phases of repatriation

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<sup>380</sup> Lakshi and Pandop were living in Dighinala transit camp when I interviewed them in 2002. The families were living under hardship since the repatriation in 1994. Both men were trying to find any kind of job that would enable them to provide the basic needs of their families. Both families had to flee CHT in 1986, when the army entered the region to protect the interests of the settler population. While in India, these families lived in Takumbari camp in Tripura. Though life seemed difficult in India, they were more secure and did not feel threatened by the presence of authorities. Rations were insufficient in camps so sometimes refugees had to sneak out to find odd jobs, though at times they were unable to find any.

<sup>381</sup> Anando Mohan was a primary teacher by profession at a school in Baghaichari in Dighinala, Khagracharri. His family was among the very few who were able to resettle at "home" in Bangladesh. He was able to provide detailed accounts of his reasons for fleeing Bangladesh and when they were able to repatriate to home. During the course of our interview, Anando was very forthcoming with information and generously discussed many aspects of refugee lives in India and their present situation in Bangladesh. In 1989, Anando and his family were forced to seek refuge in Tripura. Initially, the family lived in Takumbari camp, and later they were moved to Panchabari camp located in Tripura.

took place, and refugees realized that the situation was far from “good” to facilitate further repatriation of refugees from India. The terms and conditions of the 16-Point Package were not implemented, yet refugees were asked to stay back after their repatriation in 1994. However, the third phase of repatriation began in 1997, on the basis of the 20-Point Package that clearly laid down the conditions of repatriation. Since their repatriation, refugee families have been residing in transit camps in various schools in Dighinala. Most of these refugees who had lived in a Dighinala school pointed out that settlers were unlikely to “move out of CHT,” and in the event of settlers relinquishing control over land or “move out of CHT,” refugees feared that they were unlikely ever to be able to gain possession of land and homesteads. There were nearly 3055 families living in transit camps in Dighinala districts, and refugees were critical of being able to gain land and rights in CHT.

During our interview, Anando stated that the pahari-samathal relations were skewed to begin with, and since independence they had gradually deteriorated. The pahari people found it difficult to give up their distinctive identity and join the mainstream Bengali identity; the loss of “tribal identity” coupled with the policies of marginalization led to armed struggle. Shreeti Debi and Panchalata Debi lived in Dighinala transitory camp since their repatriation to CHT from Tripura. They were repatriated from Takumbari camp in India. The families of Shreeti Debi and Panchalata Debi were quite close to each other and helped each other. Shreeti Debi narrated an incident that occurred in Tripura when her sons had suddenly fallen sick: it was through the initiative of Panchalata Debi that Shreeti’s sons received medical attention. Panchalata asserted in the interview that in India, various officials had visited to encourage them to “return” to Bangladesh. Both

Shreeti and Panchalata regretted that the Government of Bangladesh did not fulfill promises made to the Jumma people. They regretted that despite being repatriated for nearly five years, they have been living in camps that lacked proper facilities. Some Jumma refugees regretted that children of Jumma returnees were unable to continue with their education (most Chakma took great pride in asserting that they were the most educated among the pahari communities). This regret was quite evident in the testimony of Kripa Chandra Chakma.

Kripa Babu<sup>382</sup> alleged that the situation in India was not better and complained of irregular rations and poor sanitation conditions in India. In a letter addressed to the Relief Commissioner, Government of Tripura, Mr. Upendra L. Chakma alleged that the first two groups had been repatriated under false pretexts, and the repatriation had proven “futile and gimmick,”<sup>383</sup> and further repatriation should be withheld. Kripa Babu’s testimony proves that his family was reluctant to repatriate to CHT, but they had few choices other than moving into another part of India. Kripa Babu was not surprised that “nothing concrete has taken place for Jumma returnees,” but he was unhappy that “his family was *persuaded* to return.” When repatriation ended in 1998, refugees were promised “full restitution rights” as envisaged under the 20-Point Package between the GoB and PCJSS. The prospect of the settlers holding onto the hill people’s belongings was unforeseen by

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<sup>382</sup> Kripa Chakma pointed out in his narration that his family had been living through economic hardship. The family was repatriated during the last phase of the repatriation process. Kripa Babu pointed out that there was misinformation related to actual situation of returnees in CHT. Some families were concerned about the promises of the rehabilitation process that the state of Bangladesh promised to the Jumma Refugee Welfare Association. Although some of these refugees did warn their leader Upendra Lal Chakma (as he pointed out during the interview), few had any understanding other than accepting the good faith as promised by the government delegation that visited Takumbari camp urging Jumma refugees to “return home.”

<sup>383</sup> Based on internal communication dated October 5, 1994, between the District Magistrate of South Tripura and the Relief Commissioner, the DM disclosed that Mr. Upendra L. Chakma had sent a letter alleging lack of re-instatement of Jumma refugees repatriated in first and second group in CHT.



the engineers of the peace agreement. The Jumma refugees' return to CHT region was basically seen by settlers as yet another problem in the ongoing struggle over land between hill people and themselves. Despite the Government of Bangladesh's assurance and the political commitments made by the government, returnees realized that very little had changed within the CHT region. The question of political representation remained unaddressed by the GoB. Regarding the prospect of employments, the Chakmas realized that despite gaining education during their period of exile in Tripura, refugees were unable to put it to proper use. Some had to start all over again, as certificates received from India were not "fully recognized by the GoB" (as stated by one of the interviewees). The second group of the Jumma refugees interviewed was different from those belonging to the first group of Jumma refugees. The second group that was repatriated as part of the experimental process of repatriation realized that their lives were no different than when they were living in refugee camps in India; with few jobs and no certainty of rations after a period of one year, they soon realized that indeed their lives could have been better in India.

There are many unresolved issues regarding the reconstruction of Jumma returnees: land, restitution of property, creation of land commission and Regional Hill District Council, and the formation of the Task Force were to be created to oversee the process of rehabilitation. The Chittagong Hill Tract Regional Council has become operational since 1999, and the land commission was established in April 2000. In May 2003, nearly 35,000 cases had reportedly been submitted for adjudication. The Task Force creation has led to various other problems between settlers and Jumma people. Property rights have proven to be an additional problem between settlers and Jumma people, as the latter were

regulated by local traditions regarding rights and *patta* (land deed). The local settlers managed to obtain legal documents certifying occupation in land deeds and homestead, which further heightened tension between two groups. There are several legal cases pending against the settlers for illegal occupation of land originally belonging to Jumma people, but people have been unable to prove their possession rights. In addition to these operational issues, land pressure continues, as the Government of Bangladesh has declared large areas of CHT as “reserved” or “state” forest where agricultural practices etc., have been forbidden by law. This essentially means that Hill District Council has control over these forest areas. But there have been allegations that the Government of Bangladesh had evicted hill people from these areas under the pretext of declaring it reserve forest, when in reality had intended it to “resettle Bengalis in these areas” (CHTC 2000). The issue of land occupied by the settler population was further aggravated with illegal occupation of land by armed forces in CHT and transformation of these land and the illegal construction of religious institutions by officials within CHT. There are widespread land dispossessions in the Chittagong Hill Tracts and intimidation by military and settlers within the region. Various respondents<sup>384</sup> asserted in interviews that although they had no land deeds, they were engaged in legal struggles against both settlers and military occupation of their land.

The Peace Accord of 1997 pledged to restore the Jumma people in CHT and allowed possession of land and homestead from plain people. The Accord “accepted administrative pluralism between CHT and the rest of Bangladesh” (Schendel 2000, 93).<sup>385</sup> The Agreement accepted the discretionary power of the Regional Council in the

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<sup>384</sup> As mentioned by various respondents in interviews in Dighinala, August 2002.

<sup>385</sup> Willem van Schendel “Bengalis, Bangladeshi and Others: Chakma Visions of a Pluralist Bangladesh,” in

event that “rules and ordinances contradictory to the 1989 Hill District Council Acts<sup>386</sup> then the government shall remove that inconsistency by law according to recommendation of and in consultation with the Regional Council.”<sup>387</sup> But these concessions were unacceptable to the United Peoples’ Democratic Front (UPDF), who accused the PCJSS of submitting to the demands of Bangladesh state.<sup>388</sup> The group termed the agreement as a “sold out”<sup>389</sup> and failure to bring respectability and dignity to the Jumma cause. In 1998, the Rangamati Declaration was adopted unanimously by participants (approximately 100 members) in Chittagong demanding that the government impart primary education “in the mother tongues of the indigenous peoples of the CHT” as well as “courses on the languages and cultures of the indigenous peoples of the CHTs.”<sup>390</sup>

The problem of de-militarization remains unresolved in CHT. Of the estimated 520 temporary camps in place at the signing of the Accord,<sup>391</sup> nearly 31 military camps have been withdrawn. The creation of the Task Force has run into a myriad of issues, as representatives of Jumma people and government officials disagree on the definition of Internally Displaced People to be included within those who are entitled to rations, land

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*Bangladesh Promise and Performance*, ed. Rounaq Jahan (Dhaka: The University Press Limited, 2000).

<sup>386</sup> The Hill District Council was approved by the Government of Bangladesh when the PCJSS demanded “regional autonomy,” instead adopted legal and executive measure, and in 1989 the Parliament enacted the Rangamati Hill Tract Local Government Council Act of 1989; the Khagracharri Hill Tracts Local Government Council Act of 1989, the Bandarban Hill Tracts Local Government Council Act of 1989, and the Hill District (Repeal and Enforcement of Law and Special Provision) Act of 1989. Though the government enacted laws recognizing the separate status of Hill District Council, in reality the government did not provide any such right. Therefore, it was not a devolution of power in a real sense. Moreover, the Special Affairs Ministry was constituted in July 1990 to look after matters related to CHT were government appointed.

<sup>387</sup> The Agreement between the NC on CHT Affairs and the PCJSS (Dhaka 2, December 1997), Para C, 11.

<sup>388</sup> As mentioned during interviews by UPDF members in Dhaka in August, 2002.

<sup>389</sup> Interviews with members of UPDF in Dhaka August 2002

<sup>390</sup> Rangamati Declaration was held on 18-19 December 1998, demanding that primary education and educational institutions accept different languages of indigenous people in CHT.

<sup>391</sup> Asian Centre for Human Rights, 25 August 2004, *The Ravaged Hills of Bangladesh*.

rights, and other rights. According to the government officials, various settlers were displaced as a result of Jumma repatriation and in need of compensation. The representative from CHT disagreed and accused the Government of Bangladesh of violating the terms and conditions of the Peace Accord. The Jumma refugees repatriated during the experimental phase were rather reluctant to discuss peace initiatives. During the repatriation of Jumma refugees, none of the international protocols related to the international refugee regime was observed. There were no means of verifying whether Jumma refugees indeed returned to their home country voluntarily.

The constitutional protection accorded to minorities in Part 1 (2a), 3, and 6 of the Bangladesh Constitution have undergone steady changes. The Part I of the Constitution of Bangladesh upholds the Republic of Bangladesh, and 2a specifically enshrines the “state religion of the Republic as Islam”, but allows “other religions” to be “practiced in peace and harmony”. Some of these changes were the result of the Eighth Amendment of the Constitution which later transformed the secular ethos of the Bangladesh polity. Furthermore the Section 3 of Part I of the Constitution stipulates the “state language of the Bangladesh is Bangla” (the word Bangla was substituted for the word Bengali). Similarly, Section 6 of Part I addresses citizenship issues. Section 6(1) asserts that citizenship of Bangladesh shall be determined and regulated by law; Section 6(2) asserts that the citizens of Bangladesh shall be known as Bangladeshis.<sup>392</sup> The Jumma people had problems with both these contentions, as they feared that their identity as Jumma people would be submerged within the popular Bangladeshi identity that professed to adhere to Islamic principles; on the other hand, the Bengali language was reduced to Bangla that

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<sup>392</sup> These changes were part of amendments made in Article 6, which was later substituted by the Proclamation Order No. I of 1977.

was less universal and more intertwined with Bangladeshi identity. The Bangladesh state's attempts to homogenize citizens on common Bangladeshi identity were perceived as a threat to the Jumma community. The state of Bangladesh since 1971 has failed to accommodate Jumma identity within the polity and has continued in this failure through the Constitution of Bangladesh; therefore, Jumma returnees seemed quite unsurprised that there were very significant changes in CHT.

In this chapter I have discussed the prospect of accommodation of Jumma in a post-peace post-repatriation context. I have analyzed in detail how the Peace Accord, despite its stipulated terms and conditions, has failed to address the problem of representation due to number of reasons. First, the continuation of policies of marginalization of the majoritarian state in Bangladesh deliberately excludes the minority. The terms and conditions of belonging in Bangladesh were therefore determined on the basis of religion, rather than on language. Second, the state of Bangladesh has minimally attempted to address the issue of representation through the creation of the Ministry of CHT Affairs, but it has failed to fulfill the Jumma's hopes by offering a package of power-sharing with the Jumma people. Thus, I have put forth two hypotheses: first, the continuation of exclusionary politics in the home-country is likely to adversely impact returnees' re-integration; and second, the greater the extent to which countries of origin renege on promises to facilitate repatriation, the less effective returnee-refugees' integration in "post-peace" and post-repatriation contexts will be. Since the Peace Accord, Jumma returnees have been repatriated based on expressed desire that upon return they would be properly rehabilitated in CHT. While Jumma refugees have been successfully repatriated to CHT, there have been no initiatives on the Peace Accord. Thus the Jumma refugees

have not been fully reinstated as citizens, especially given the terms and conditions of the Peace Accord, and therefore they are no better off than their previous position prior to the conflict. The restoration of Jumma rights was intertwined with issues of nationality and identity-based politics in Bangladesh. The prevalent Bangladeshi identity seemed to have favoured the majoritarian identity with increasing religiosity—a combination of Islamic ideals and Bangla language—over the secular-pluralist ideals of Bengali identity. In this nationalist discourse, Jumma identity remains in the margins, with fewer rights and less status.

The post-repatriation accommodation of Chakma/ Jumma people was well stipulated in the terms and conditions of the Peace Accord. The continuation of policies of state marginalization of Bangladesh was reflected through policies of state, especially the non-implementation of some of the key terms and conditions of the Accord, indicated the failure of the state to address the question of Chakma/ Jumma accommodation. Unlike the Tamil returnee-refugees, the Jumma were on firm ground to receive a rehabilitation package that would enable the process of reconstruction, but in reality their situation was worse off (I expand on these arguments in Chapter 6).

### ***Conclusion***

In this chapter I have analyzed the impact of majoritarian policies on Jumma people prior to the creation of refugees and later after their repatriation to “home.” The typical state-formation process in Bangladesh within the majoritarian-minority discourse resulted in the alienation of the paharis in the CHT region. While there have been arguments regarding the exact nature of state-formation and its impact on minority identity-formation, I contend that the Jumma nationalism was in response to majoritarian idea of

state in newly-created Bangladesh. The majoritarian state of Bangladesh defined nationality and identity along lines that were exclusionary and alienating to minority groups. The typical nationalist agenda was to create an independent Bangladesh state with few pluralist elements. The result of this particular line of argument was that state-building project that ensued after the creation of Bangladesh left little room for those who refused to conform to the common Bangladeshi identity. It was a departure from the pluralist-secular principles of Bangladesh, where religion had a secondary role in the polity of Bangladesh; rather, it was the common ties with the Bengali language, and on the basis of linguistic nationalism, that the independent state of Bangladesh was carved out from former East Pakistan. In the newly constructed nation-state, Bengali identity, language, and culture became tools for differentiating Bengali population from the non-Bengalis. The state project of homogeneity led to the intense marginalization of hill people, who subsequently attempted to assert themselves politically and sought political representation. Historically, the state of Bangladesh had various windows of opportunity to provide a safety net to the Jumma people by according them political recognition within the constitutional framework. But the political forces operating within Bangladesh polity failed to accommodate them.

While the state continues its adversarial relationship with minorities, the struggle for the Jummaland has evolved as a countering mechanism to the dominant group in Bangladesh. The concept of Jummaland was not a new phenomenon; the Jumma people have been supporting the idea of homeland that would provide protection and security since pre-colonial days. There was ample evidence to prove that their status in pre-colonial and colonial days was not better, but Jumma people did not have to face the idea

of forced assimilation, which had been the state project since 1971. Bangladesh since 1971 ensued distinctive state policies that intended to leave a certain section of the population outside the domain of nation-building. The Jumma returnees' politics have been discussed under such circumstances. The Jumma peoples' attempts to reassert the distinctive identity metamorphosed into first, the desire to create Jummaland wherein their identity and culture would be secure and second, to restore the CHT region back to the days when the Regulation Act of 1900 protected their distinctive identity and nationality. The state of Bangladesh does not recognize the possibility of Jumma nationalism as a counter-mechanism to the existing hegemonic tendencies, and it opposes such acts of a separatist movement. Jumma people find themselves in precarious positions since their repatriation to the CHT region. Based on data collected in Khagracharri, it was evident that the Jumma people were unhappy with their existing status in CHT region, but unlike earlier, they were more united to confront the Government of Bangladesh on issues of equality of rights and of reinstatement of citizenship. The discussion of the politics of state-formation seemed relevant because the status of the Jumma returnees' were intertwined with the present politics in Bangladesh. Since the creation of Bangladesh, the state-formation project remained exclusionary and majority-focused. The state of Bangladesh failed to accommodate the hill people within any constitutional mechanism: it set about to change the distinctiveness of pahari people by flooding the region with people from the plain areas, which set the tone for any future relations between the state of Bangladesh and paharis on the one hand and samathabashsis and paharis on the other. Thus at one level, Bangladeshi identity and nationality continue to be exclusionary of the Jumma population; on another level, they profess to be better with the signing of the



Peace Accord. Since repatriation the Jumma people are still excluded and far from being accommodated by the Government of Bangladesh.

## CHAPTER 6

### *Negotiating Inclusion in “Homeland”: A Comparative Perspective on Returnees in Sri Lanka and Bangladesh*

#### *Introduction*

In this chapter, I investigate the re-integration prospects of two refugee groups in the post-peace post-repatriation context. I provide an appraisal of the political statuses of returnee-refugees and assess the belonging in “home” and homeland in Vavuniya, Mannar in Sri Lanka and Khagracharri in Bangladesh. I contend that though “home” and homeland are significant components in the refugee narrative in exile and facilitate repatriation, certain constraints prevent mechanisms of accommodation in countries of origin, thereby reducing the refugees once again to the status of returnees<sup>393</sup> in their countries of origin.

In this chapter I investigate the second research question in a comparative perspective: Why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states? It is a continuation of earlier empirical chapters, but I analyze the findings to assert that given the similarities in conditions, one group is marginally worse off than the other group in the country of origin. In a comparative framework, I discuss the different experiences of the Jumma and Tamil returnees in countries of origin and assert that despite similarities in preconditions and structural conditions in the two refugee groups, the Jumma refugees are marginally worse off politically and economically. The chapter argues that the refugees’ need to seek “home” is tied to the politics of belonging in exile and in their homeland. It further explains why refugees,

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<sup>393</sup> The official term for this is *internally displaced person*, but I refer to these groups as returnee-refugees.

despite being repatriated to their homeland, have failed to reclaim the status of citizens. The structural conditions of refugee groups in countries of origin have, however, remained similar and unchanged, such as in the case of the Jumma in CHT, who lacked an effective devolution package to address minority representation, or the case of the Tamils in Sri Lanka, where the process of post-peace accord is far from complete, although less so than for the Jumma population. Similarly, the possible rehabilitation of the Tamil returnees depends on continuation of peace initiatives in Sri Lanka. Other factors exist that can explain variations in the post-repatriation outcome of two refugee groups: the continuation or absence of a peace process, i.e., the ceasefire or signing of an accord; access to certain lost rights in countries of origin, and the nature of rights accessible to returnees; the accessibility of “home” as envisaged by refugee groups; the role of peace brokers; the role of aid agencies; and finally, the strategies of accommodation in countries of origin to rehabilitate returnees adequately.

The chapter is divided into two sections: the first section analyses strategies to negotiate the inclusion of a returnee population into a homeland. Through careful assessment of policies of accommodation available in Sri Lanka and Bangladesh, I argue that Jumma refugees in Khagracharri are marginally worse off than Tamils returnees in Vavuniya and Mannar, especially in relation to political status, rations, and capacity to bargain with the state to achieve their goal. The second section locates the importance of home and the homeland in the refugee narrative and asserts that returnees attribute special meaning to home and homeland that is significantly different from the insurgent viewpoints in both Sri Lanka and Bangladesh. The struggle for a separate homeland as envisaged by Tamil rebels/ Karuna faction, or breakaway groups, Priti faction of PCJSS,

or the United People's Democratic Front seemed different from the refugee views on "home."<sup>394</sup> Later in the chapter, I discuss a typology of "home" based on refugee experiences Bangladesh and Sri Lanka, wherein refugees attribute different meanings to home, based on their location of stay.

### *The Variation in Integration of Returnees in Bangladesh and Sri Lanka*

	<b>Jumma Returnees</b>	<b>Tamil Returnees</b>
1. Continuation of Peace Process	Intact but volatile	Tenuous and upsurge in political violence and killings
2. Devolution of power and power sharing between centre and provinces	Limited and on paper only, with few success	Marginal and part of the negotiation
3. Strategies of accommodation	Mixed	Mixed
3a. Land Redistribution	Marginal	Partial success (Mannar)
3b. Financial Assistance	Marginal	Mixed
3c. Ration Distribution	Poor	Mixed with pockets of starvation
4. Freedom of mobility	Mixed	Marginal
5. Citizenship Rights	Mixed	Mixed

As seen in the above chart, the process of returnee integration of Jumma and Tamils in Bangladesh and Sri Lanka differed marginally. Despite a number of similarities, there were quite a few differences in the manner in which one group had more opportunities to re-integrate more successfully than the other. Most of these differences seem apparent in the manner in which strategies of accommodation was adopted in countries of origin

<sup>394</sup> The returnee populations are engaged in the struggle to survive in countries of origin, whereas the insurgent groups LTTE/ Karuna faction of LTTE and PCJSS (Priti) are engaged in a separatist struggle for statehood or autonomy.

(Bangladesh v. Sri Lanka) vis-à-vis Jumma and Tamils to address the question of post-peace post-repatriation rehabilitation of returnees in “home.” The table highlights the differences in the integration process of the two refugee groups in relation to certain conditional factors such as the continuation of peace process; the devolution packages; the strategies of accommodation pertaining to land distribution, financial assistance, and rations; the freedom of mobility; and citizenship rights and the role of non-governmental organisations in facilitating the process of inclusion. I have determined the outcome of these strategies and rights based on how successful the groups (after interviewing refugee groups in countries of origin) was in availing these rights in countries of origin. I determine their scope within a scale (which is not based on numerical value) as mixed, marginal, and poor. Mixed results indicate that groups were able to avail rights; marginal results indicate irregular availing of rights; and poor results indicate lower than marginal receipt of rights.

#### *Continuation of the Peace Process*

Based on data collected from returnees in Bangladesh and Sri Lanka, the two returnee populations experienced similarities in living conditions. The continuation of refugee-like existence, poor housing and sanitation, ration distribution, and poor access to resources and other facilities are few points of similarities. The Jumma and Tamil refugee inflow to India was a direct outcome of the ongoing separatist conflicts in Bangladesh and Sri Lanka. The pre-repatriation terms and conditions, i.e., ceasefire or peace accord of Tamil and Chakma refugees, determined the patterns of repatriation. Furthermore, the continuation of preconditions of the Peace Accord between the Government of

Bangladesh and the PCJSS and the ceasefire agreements between the Government of Sri Lanka and LTTE determined the manner in which returnees would be accommodated.

I assert that the Jumma returnees have marginally worse conditions than the Tamils in Sri Lanka. The Jumma refugees' repatriation was hailed as one of the few successful cases of repatriation because of the Peace Accord, which explicitly laid down the groundwork of Jumma rehabilitation as stipulated in Part D of the Accord. It addressed the moot point of Jumma representation and the de-militarization of homeland (CHT) to facilitate peaceful repatriation, and later rehabilitation, of Jumma returnees from India in 1998. The Peace Accord<sup>395</sup> was successful in ending the prolonged and protracted warfare between the militant wings of PCJSS and the Shanti Bahini, and it facilitated the return of sixty thousand Jumma from India. These preconditions of rehabilitation were well stipulated in the Accord, which was co-signed by the Government of Bangladesh and PCJSS in "good faith." The significance of the Accord is that it ended the conflict with the promise of accommodations of Jumma within mainstream politics of Bangladesh yet without threatening the distinctiveness of Jumma identity. The repatriation of the refugees from India signified that Jumma questions of belonging had been resolved within Bangladesh politics, thanks to a caveat that stated that unless Jumma people are accepted within the Constitution of Bangladesh, the refugee question will remain unresolved. The Peace Accord was a binding document that enabled a successful resolution to the Jumma question of belonging in Bangladesh. In comparison, the preconditions relating to the

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<sup>395</sup> The most salient features of the 1997 Accord/ Treaty are: the decommissioning and deposit of arms by JSS fighters; the rehabilitation of the ex-combatants; the rehabilitation of the international refugees and internally displaced people; the dismantling of non-permanent military camps and the return of the soldiers to their regular barracks within cantonments and other specified permanent garrisons; the self-government through district and regional councils and indigenous institutions; the land and resource rights; and the recognition of the cultural identity of the indigenous people and their laws and customs.

Tamil refugee repatriation during peace initiatives and peace process ranged from informal talks and a unilateral ceasefire between the Government of Sri Lanka and the Tamil rebels. The Tamil returnees were led to believe that the peace initiative would ultimately result in a resolution of the conflict enabling Tamils to resume normal lives and return home. The terms of negotiation were more loosely constructed, and thus failed to lay out clearly the broad basis of Tamil refugee accommodation. The Tamil returnees from India accepted the ceasefire as a step toward returning “home” rather than returning to their “homeland.” The ceasefire document mentioned the issue of Tamil refugees but did not concretize steps to address the problem. According to the Tamil Rebel group, the problems of resettlement of the returnees were tied to the question of Tamil “homeland.” The refugees were merely fallout of the larger problem of Eelam, which refused to prioritize the question of Tamil returnee rehabilitation. The Tamil refugees realized that the creation of a Tamil homeland may transform their prospect of returning to “home.” They remained hopeful, yet the Tamil returnees were uncomfortable in acknowledging the Tamil Rebel’s concept of homeland.

The finality of the Peace Accord between the PCJSS and the Government of Bangladesh left the Jumma refugees in a weaker bargaining position to negotiate better rehabilitation packages, which I have determined as worse off conditions than the Tamils’. The Tamil refugees, on the other hand, were repatriated on the basis of a ceasefire agreement, which proved beneficial in keeping the nature of ongoing negotiation, as refugees continued to reside in a temporary location. In this instance, the scope of involvement of international agencies and aid agencies was greater. The Peace

Accord stipulated the manner in which Jumma returnees would be rehabilitated. Part D<sup>396</sup> of the Peace Accord recognized that Jumma refugees would need sustainable assistance to facilitate the reconstruction process. The structural basis of inclusion of Jumma returnees was predetermined as opposed to Tamils from India. The Peace Accord laid out terms and conditions of rehabilitation of Chakma refugees in Chittagong Hill Tracts, but the terms and conditions of inclusion of Tamils were much more open-ended. The continuation of the peace process was a condition in the cases of both refugee groups, but negotiations on Tamil returnees were much more open-ended.

The Tamils were repatriated from various camps in Tamil Nadu and were now residing in the transit camps at the time of the fieldwork.<sup>397</sup> The Tamil returnees residing in welfare centres in Vavuniya and Mannar were a residual load of previous repatriation<sup>398</sup> processes (1987, 1992, 1994, 1995, 1997, and 1998). The residents of various welfare centres and open relief camps were part of different repatriation processes initiated by the Government of India. The Tamil refugees were managed by the government and various international aid agencies. The involvement of external agencies facilitated opportunities to negotiate better “deal” among Tamil returnees. The strategies of accommodation of Tamil refugees in Sri Lanka were far less enduring than those offered to the Jumma in

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<sup>396</sup> According to the CHT Accord, Part D addressed the issue of rehabilitation, general amnesty, and other matters, such as the repatriation of the Jumma refugees, the rehabilitation of internally displaced Jumma people, the provisions for the settlement of land with the landless Jumma people, the formation of CHT Land Commission, and the settlement of land disputes.

<sup>397</sup> The fieldwork coincided with the beginning of ceasefire in 2002. Thereupon, both parties, i.e., the LTTE and the Government of Sri Lanka, went through numerous rounds of talks to find a amicable solution to the crisis and to accommodate the Tamils within the constitutional framework of Sri Lanka. However, in 2003, the talks broke down between the parties; they later resumed in Geneva in 2006.

<sup>398</sup> During the fieldwork, I was under the impression that I would be able to interview Tamil refugees repatriated in the late nineties. However, during the interviews in various welfare camps, I realized that the Tamil-returnees in the welfare centres had been residing there since the early eighties. Some of them had visited the place of dislocation but had to return to the camps when conflict resumed between the LTTE and the Government of Sri Lanka. My respondents were a combination of Tamil-returnees from different stages of repatriation process between the Government of Sri Lanka and India.



Bangladesh. In 2000,<sup>399</sup> the Government of Sri Lanka refused to provide aid to returnee-refugees. The UNHCR office had redirected funds allotted to other refugees rather than providing aid to returnees.<sup>400</sup> The rationale behind the decision was based on the limited mandate of the mission, which initially did not incorporate internally displaced persons; rather, it was to look at refugee interest. Since the beginning of the ceasefire, the UNHCR and other aid agencies have adopted a much more proactive attitude towards providing relief and assistance to refugees.

The Peace Accord curtailed possibilities of negotiating further with the Government of Bangladesh, and refugees clearly expressed their anxiety over the non-implementation of the Accord and the PCJSS. Moreover, members of United People's Democratic Front were looking for opportunities to re-open negotiation with the Government of Bangladesh in order to re-acquire their land and homesteads and begin the struggle for autonomy once again. Members of United People's Democratic Front asserted that the accord was a "sell-out"<sup>401</sup> and challenged the authority of PCJSS to represent the interest of Jumma people. Unlike the Tamils in Sri Lanka, the Jumma had few opportunities to relocate and create a new homeland based on original habitation. The situation of Jumma is far grimmer than that of the Tamils, as the involvement of international agencies is less. The continuation of peaceful conditions is one of the conditions enabling Tamil refugee movement in Sri Lanka.

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<sup>399</sup> Interview with the refugee in Pessalai welfare centre, June 2002.

<sup>400</sup> According to an official in the UNHCR office, Colombo, "the need of the hour was to provide for the repatriation etc., and there were no funds available to take care of returnees over a prolonged period of time."

<sup>401</sup> Interviews with members in Dhaka, August 2002.

The structural conditions of the returnee populations in their countries of origin seemed almost similar, with a few exceptions. The political outcome of returnees' ability to return to "home" is a crucial question in post-peace repatriation framework. I argue that despite the almost identical socio-economic conditions of Jumma and Tamil returnees, the political conditions of two refugee groups were significantly different. It is important to assess why such is the case. The conditions enabling repatriation of Jumma and Tamil refugees from India is an important point of departure.

The Jumma refugees had a Peace Accord stipulating the terms and conditions of their rehabilitation and resettlement. The question of accommodation of returnees was interlinked with that of minority representation in Bangladesh. The signing of the Peace Accord signalled the end of the struggle for autonomy between the PCJSS and Government of Bangladesh. Furthermore, the disarming of SB was a major step in resolving the Jumma problem within the Peace Accord, which had prioritized the question of Jumma returnees, as they played an important role in brokering the deal. However, despite their assured safety of return in their country of origin, the Chakma/Jumma returnees appeared to be in a vulnerable position as a result of irregular state assistance and lack of policies to accommodate their demands.

The situation for the Tamil returnees was considerably different from that of the Jumma returnees. The ceasefire was only a starting point in the question of accommodation of Tamil returnees, since the ceasefire document did not adequately address the Tamil question. The reconstruction process for the Tamils was intertwined with the question of a Tamil homeland. The Tamil refugees' perception of "home" was,

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<sup>402</sup> The empirical chapters discuss the CFA/ ISGA and the Peace Accord in detail.

however, different from that of Tamil insurgents. The disarming of the Tamil Rebel group was a problem, as the terms and conditions of the CFA were unacceptable to the rebel group; paradoxically, the stalemate enabled the continuation of peaceful conditions. Despite the low priority accorded to the rehabilitation the ongoing nature of the conflict in Sri Lanka gave Tamil refugees bargaining power to negotiate with the government independently of the Tamil Rebels.

#### *Devolution of Power-Sharing and the Continuation of Politics of Exclusion*

The politics of exclusion in countries of origin can be determined through a detailed discussion on the nature of accommodation available to minorities, which I have discussed in the previous empirical chapters. The countries of origin continued their policies of marginalization, some of which were continuations of the very policies that had led to conditions of refugee-generation.

Some of the basic demands of political autonomy of hill people—such as including the Hill District councils as part of the three-tier administrative systems, along with the Regional Council and the Ministry of CHT Affairs—were accepted by the Government of Bangladesh with few concessions. But the Government of Bangladesh refused to merge the three district councils and sought a compromise through the creation of the Ministry of CHT Affairs (MOCHTA) and the Regional Hill Council. The idea behind the merging of the three district councils was to reinforce the ideology of Jummaland, a land belonging to the Jumma that would preserve and protect the ethnic diversity and plurality of 13 ethnic communities. The cultural demands of preserving the 13 ethnic communities were accepted on a superficial level but without any special recognition or mention in the Constitution. Furthermore, the Bangladesh state attempted to marginally address the

political demands of representation, which had a serious drawback in implementation. In operating some of these principles, the existing three hill councils and regional councils often did not see eye-to-eye on matters of interest to CHT. Mohsin (2003, 63) asserts that the Accord had led to the increasing “governmentalization of its administration instead of the specified decentralization.” Though on an administrative level the CHT affairs may seem multilayered, the ideology was the decentralization of power from the state in Bangladesh, rather than creating more pockets of power within the administrative setup of Chittagong Hill Tracts. Therefore, on one level the Peace Accord in Bangladesh limits the possibility of manoeuvring at the administrative level, and on the other, it has failed to address the moot point in the Accord, i.e., land distribution among the Jumma people.

In Sri Lanka, the demands of CFA and ISGA in the beginning of 2002 have been discussed in Chapter 4. However, presently Sri Lanka has failed to accept any model of power-sharing with Tamils. At the time of the fieldwork in Sri Lanka, Tamils were optimistic about the devolution. In the following section, I discuss the strategies of accommodation, which is an extension of power-sharing mechanisms accepted by countries of origin. The Tamils in Sri Lanka were in a disadvantaged position, but the Jumma are worse off. The groups responsible for brokering the peace process, such as Jumma and Tamil rebel groups are different in their ideology. However, the Tamil refugees were housed in better conditions as opposed to Chakma refugees in Chittagong Hill Tracts. The manner in which Tamils and Chakma returnee prospects differed depends on how the states of origin were able to negotiate strategies of accommodation given the nature of ongoing conflict and the ever-changing nature of ceasefire. Therefore, the variations in the conditions of the Chakma and Tamil returnees were contingent on

whether the bargaining strength of the groups involved in the peace process were able to hold the respective states accountable in the event of state reneging. Both Bangladesh and Sri Lanka adopted limited accommodation policies of returnees. The devolution packages of these countries had marginal application in relation to Tamils and with limited success in the Chakma returnee situation. I discuss these aspects in the following section.

### *Strategies to Accommodate Returnees in Sri Lanka and Bangladesh*

The Ministry of Rehabilitation, Resettlement and Refugees (MRRR) was created in 2001,<sup>403</sup> with the intention to resettle and relocate the internally displaced persons belonging to the northern and eastern part of Sri Lanka. The MRRR assumed a mandate to function as a Ministry, in addition to its new responsibilities to aid the districts in rehabilitation and reconstruction in Jaffna, Kilnochi, Vavuniya, Mullaitivu, and Mannar, and to coordinate rehabilitation and development work of Resettlement and Rehabilitation Authority of the North (RRAN). The word “resettlement” meant a promise to begin the process of “moving IDPS back to their original places of residence,” and “relocation” referred to settlement of IDPS on new land.<sup>404</sup> There were nearly 800,000 internally displaced persons in Sri Lanka, of which 174,250 persons were residing in welfare centres, and 490,000 with friends and relatives.<sup>405</sup> The ministry was created to provide a centralized form of authority to regulate mechanisms of rehabilitation and reconstruction in Sri Lanka. The resettlement allowance was in the amount of 65,000 Sri

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<sup>403</sup> The MRRR provided emergency relief and housing, built socio-economic structures, and provided sustainable income activities along with sense of dignity to resettled or relocated homes.

<sup>404</sup> Ministry of Resettlement, Rehabilitation and Refugees, *Report on Programmes and Performance* (2001-2002), 6.

<sup>405</sup> These are official figures as stated by the Minister of RRR, Dr. Jayalath Jayawardena, in the forward of the mission statement and reiterated during an interview in Colombo, June 2002.

Lankan rupees to each family.<sup>406</sup> According to the Unified Assistance Scheme (UAS), each resettled family was granted a sum of 14,000 rupees as resettlement package along with permanent housing grant of 25,000 rupees. During 2001, 1560 families were provided a permanent housing grant at the rate of 25,000 in Vavuniya and Mannar districts.<sup>407</sup> Since the merger of RRAN with MRRR, the problem of distribution has been acute. Based on the Memorandum of Understanding and cessation of hostilities, IDPS were expected to return to their original places during 2002, yet they have been unable to do so. Furthermore, respondents in various welfare camps<sup>408</sup> were living in poor conditions and appeared unlikely “to return home.”<sup>409</sup> An increase in the lack of coordination between agencies involved in relief distribution has contributed to problems of integration. Also, increased problems of accessibility to uncleared areas, in the northern part of Sri Lanka, was seen as a problem in dealing with resettlement issues of returnee-refugees. In past, the Government of Sri Lanka functioned well with the MRRR as the apex body in providing enhanced financial assistance to refugees. However, now respondents indicated that despite assistance and governmental vigilance, returnee-refugees were still living in abject poverty.<sup>410</sup>

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<sup>406</sup> MRRR, *Progress and Performance* (2001-2002). Since the formation of the new government, there has been an increase in total amount given to refugees as resettlement packages. The Unified Assistance Scheme was revised in 2003. The housing grant was increased from 50,000 rupees to 75,000 rupees. As of 2004-2005, the scheme had undergone further changes, which raised the allowance to 175,000.

<sup>407</sup> Ministry of Resettlement, Rehabilitation and Refugees, *Report on Programmes and Performance* (2001-2002), 15.

<sup>408</sup> Ponnthoddam Units 2, 8 and Sithamparapuram: research sites where interviews were conducted in June 2002.

<sup>409</sup> As indicated during several interviews with returnee-refugees in camps in Pessalai, Vavuniya, and Mannar. June 2002.

<sup>410</sup> The respondent interviewed in Pessalai was residing in welfare camp for a period of nine years. During the interview on June 2002, the respondent indicated “I have been starving here for a long time.” When asked whether the government had forgotten about their needs, she concurred and pointed out, “I shouldn’t have returned from India.”

The MRRR was reconstituted in April 2004 as the Ministry of Relief, Rehabilitation and Reconciliation with the purpose to understand issues related to resettlement and relocation of IDPs, rehabilitation and reconstruction, and rebuilding the social and economic infrastructure of eight districts located in the north and east. In addition, it professed to promote ethnic reconciliation and social harmony. Though the mandate appeared similar to that of the previous MRRR, the foreign donor assistance<sup>411</sup> has increased considerably. The Government of Sri Lanka worked in conjunction with non-governmental organisations towards the rehabilitation of returnee-refugees. The total donor assistance to Sri Lanka in 2001 was in the amount of \$330 million (USAID 2001). Japan is Sri Lanka's largest donor, followed by the Asian Development Bank, the World Bank, Germany, and the United States. In 2003, the international community pledged \$4.5 billion to support the Government of Sri Lanka's efforts to address the immediate and longer-term needs of the war-affected north and east. But the disbursements of these funds are contingent on resumption of negotiations between Tamil rebels and the Government of Sri Lanka.

Conversely, in Bangladesh, the politics of accommodation can be traced back to the history of state-formation, which favoured the Bengali-majority over minorities, including the 11 ethnic minorities in Chittagong Hill Tracts. The majority Bengali-state had failed to accord minorities' special status or recognition in the Constitution of

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<sup>411</sup> Almost all donor assistance in Sri Lanka is related to peace-building and humanitarian assistance, and some dealt with rehabilitation, with the exception with major donors such as the USAID, UNDP, and WFP. Japan and the Asian Development Bank provide loans and grants in the areas of infrastructure, reconstruction and rehabilitation, industrial development, agriculture, health, human resources, transportation, and power sector reform. In the area of democracy and good governance, the World Bank has a project supporting legal reform, while the United Kingdom, Germany, Sweden, and Norway have programmes related to conflict, human rights, civil society, and media development. USAID has a comparative advantage in a number of areas, including private sector development, trade capacity building, participatory governance, and providing a quick and flexible response for immediate reconstruction and rehabilitation.

Bangladesh. The leader of PCJSS, Mr. Shantu Larma,<sup>412</sup> contends the constitution-making in the seventies and subsequent state-building in Bangladesh had laid down the basic criterion of belonging within the discourse of citizenship, which chose to marginalize paharis. The minorities were forced to adopt the Bengali identity as opposed to their distinctive pahari identity. The process of alienation was further accentuated through land-grabbing policies, as well as the “pushing-in” of settlers from the plain areas to CHT, an act that was in direct violation of the Regulation Act of 1900.<sup>413</sup> According to Shantu Larma, or Shantu Babu as he is popularly called, the repatriated refugees in various part of CHT had expressed reservations on the reconstruction processes and rehabilitation in CHT.

The PCJSS negotiated policies of power-sharing with the Government of Bangladesh to accommodate the interests of the Jumma people. The terms and conditions of the Accord promised to restore landholding as well as complete restitution of the Jumma people as citizens of Bangladesh. The Peace Accord was an improvement on the last accommodations suggested by the Government of Bangladesh.<sup>414</sup> A major aspect of the

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<sup>412</sup> As mentioned in an interview with Shantu Larma, August 2002. Mr. Larma discussed the manner in which the Bangladesh state attempted to destroy the ethnic balance in the CHT region. The Government of Bangladesh was autocratic in imposing a particular kind of nationalism based on religion, which devastated the pahari hope of any political representation based on their indigenous identity.

<sup>413</sup> The Regulation Act of 1900, which was promulgated in May 1900, was comprised of a package of rules and regulations for the administration of CHT area. It aimed to protect the rights, customs, traditions, local practices, peculiarities, and prejudices and thus preserve the cultural identity of hill people, who belong to a distinct Buddhist community. The three chiefs or Rajas are responsible for collecting revenues on behalf of the British. For the hill people, the Regulation was consequently amended to represent a particular historical compromise between rights of the tribal and outside political control. The real significance was in relation to land. Rule 34 of the Regulation substantially restricted any possession of land by outsiders in the hill tracts but failed to ban it totally, since an outsider could acquire land for plantation on commercial basis [Rules 34(b)], Residential purpose [Rule 34(d)], and Commercial purpose [Rule 34(e)]. But migration from outside was prohibited: under Rule 52, no hill-man could enter or reside in the CHT without obtaining a permit from the Deputy Commissioner.

<sup>414</sup> The National Committee (NC) on CHT created in 1987 had five rounds of meetings between the government and the PCJSS between 1987 and 1988. The PCJSS had made some minimum demands based on a five-point charter of demands consisting of (a) autonomy for the CHT with its legislature and constitutional recognition of the Jumma [Hill] nation’s right to self-determination; (b) removal of non-tribal



new agreement addressed the question of autonomy of the pahari people. The Accord promised land redistribution among the returnee population. The Regional Council System would be constituted out of the three existing hill district councils introduced in 1989 with mandate to distribute land and reinstate refugees. The Regional Council would be a multi-ethnic forum representing different tribes, including the Bengali settlers, on the basis of equal representation. The members were to be indirectly elected by the elected members of the district councils, and they were to serve for five years. The Regional Council was aimed to empower; to coordinate the development activities of three District Councils, i.e., supervise the general administration and law-and-order in the hill districts; to provide direction in the disaster management and relief programmes; to protect tribal rules; and to promote social justice as well as the enactment of laws relating to the CHT region, which required active involvement of the Regional Council. In respect to finances, the Regional Council was empowered to draw funds from the district council by collecting profits from all the property under its jurisdiction and by receiving loans and grants from the central government and profits from financial investments. The terms and conditions stipulated vested the final word with the Regional Council in matters related to leasing, selling, purchasing, or transferring land in the Hills, with a proviso that the central government would retain exclusive power to decide on land allotment; it was this provision that led to the disintegration of the devolution package. As a compromise

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settlers who entered the CHT after August 1947; (c) withdrawal of Bangladeshi security forces from the CHT; (d) retention of the CHT Regulation of 1900 and a constitutional provision restricting any amendments to it; and (e) deployment of the UN peacekeeping force. However, these demands were rejected by the Government of Bangladesh, which stated the conditions violated the spirit of the Constitution of Bangladesh. The Bangladesh government made a counter-proposal and encouraged the National Committee to prepare a nine-point peace formula based on the views of the tribal people. The structure of the proposal was based on devolution of power and political representation of the paharis in the political structure of Bangladesh. It emphasized the creation of district councils with some legislative powers (Shelley 1992). The PCJSS later rejected the scheme and continued to agitate for regional autonomy as one of the cardinal point of reference.

solution, the PCJSS gave up the demands of eviction of Bengali settlers, and the government promised to check land records to determine possession rights of tribal people prior to settlers' occupation of Bengali settlement. On the basis of customary law, land was owned collectively, and most of the pahari population cultivated land under the jurisdiction of the King. A Land Commission was constituted under a retired judge to monitor the situation and resolve all disputes relating to land through proper scrutiny and verification in consultation with the Regional Council.

The country of origins' attempts in accommodating returnees in Sri Lanka and Bangladesh were far less successful and both results were mixed. In Bangladesh, the state has failed to rehabilitate refugees within the framework of citizenship laws, as stipulated in the Peace Accord. The government in Bangladesh had failed to acknowledge the special status to the pahari and to provide for them adequately within the Constitution of Bangladesh. In contrast, the state in Sri Lanka did not produce such a dichotomy of belonging, but it too failed to accept returnees completely to their former positions. The birth certificate issue appears to be one such instance when returnees were unable to authenticate identity and belonging based on residence and blood; when fleeing, refugees had left most of their belongings behind in Sri Lanka. Another state failure to accommodate returnees was their inability to provide adequately for the reconstruction of returnees, who had now become internally displaced persons. The Government of Sri Lanka had external aid to expedite the process of reconstruction of refugees; the aid was however contingent on successful and peaceful solution(s) to the Tamil question in Sri Lanka. The following section discusses the various indicators explaining the nature of accommodation strategies in countries of origin.

### *Re-instatement of Land to Returnees*

The adverse land-inhabitant ratio was an impediment in the reconstruction of Chakma returnees in Bangladesh (Debbarma and George 1993). The eighties had witnessed the massive “push-in” strategies of samathabashsis by Ziaur Rehman, as a mechanism to balance the pahari population against the people from the plain areas. The settlers had gradually occupied land and homesteads belonging to paharis. Most of these lands<sup>415</sup> were officially transferred to settlers from the plain areas, that is, the samathalbashi, to encourage them to remain in CHT. During Mujib’s regime, nearly 50,000 Bengali settlers were allowed to enter the CHT region. The inflow of settlers steadily increased (Zia allowed 150,000; Ershad allowed 2,410,000 settlers).<sup>416</sup> The situation was exacerbated by the presence of army personnel.<sup>417</sup> In the eighties, there were nearly 55,000 Bangladeshi troops stationed in CHT;<sup>418</sup> by the late eighties, the CHT region counted nearly 230 or more army camps, 100 BDR camps, and 80 police camps (CHT Commission 1991, 40), an armed police battalion, Reserve Police, and an armed Ansar battalion, as well as a host of Village Defence Party camps present.

Land and reinstatement of property rights appear to have been a common problem for both refugee-returnee groups. Most returning families in countries of origin were apprehensive of the land restoration problem. The issue of returning to the exact location

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<sup>415</sup> The paharis did not have land deeds to prove claims. Based on the customary land rights, paharis had the right to any piece of land. Most of the land was seen as collectively owned by the Chief, i.e., the head of each ethnic community in the Chittagong Hill Tracts.

<sup>416</sup> P. K. Debbarma and S. J. George, *The Chakma Refugees in Tripura* (New Delhi: South Asian Publishers, 1993), 46.

<sup>417</sup> The Bangladesh army was stationed in various parts of CHT region including Rangamati, Banderban, Khagracharri, Kaptai, and Sabautali. There was constant presence of police personnel in addition to the naval base at Dhalyachhadi for the Kaptai lake area. The intense military presence in CHT was viewed by the hill people as a serious violation of the Regulation Act of 1900 and its basic tenets that the hill people’s culture and heritage were to be protected by the Government of Bangladesh. The CHT region was heavily militarized by the Government of Bangladesh to provide security to settler population.

<sup>418</sup> Brian Eads, “Massacre Feared in Bangladesh,” *The Observer*, 15 March 1981.

of displacement was tied to the re-instatement of properties to returnees. The Tamil and Jumma returnees were prevented from returning to their place of dislocation; rather, they were forced to reside in makeshift camps until the conflict between the government and the LTTE was resolved. The Jumma returnees residing in Dighinala schools provided their version of what repatriation meant for them. The Jumma refugees were repatriated on the basis of a peace accord that pledged financial assistance for a period of time until rehabilitation or relocation. The process of relocation and resettlement proposed by the governments of Sri Lanka and Bangladesh lacked implementing body. Though the initial process of relocations begun in 2001, the returnee population alleged that the Government of Sri Lanka was acting unilaterally in implementing some of these programmes. Despite the presence of international agencies and aid, returnee-refugees residing in Pessalai camps were starving.<sup>419</sup> Refugees residing in ORC were the most vulnerable group that needed constant assistance from the government and international humanitarian agencies.

Returnee-refugees were mostly eager to return “home” and resume their lives, but they had to wait long to hear from the government or state officials to be able to return to the place of habitation. Some of these returnees belonged to Jaffna or *uncleared* territories (in Sri Lanka), which were under the administrative control of the LTTE. Since the ceasefire in 2002, there were numerous occasions to redress the issue of restoration of land, but it remained a low priority<sup>420</sup> for the Government of Sri Lanka. The Government Agent in Mannar and Vavuniya reiterated refugees would resume normal lives in country

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<sup>419</sup> According to one refugee interviewed in Pessalai camps, the government had forgotten them. She was nearly 80 years old and was part of the early nineties repatriation from India. In the interview, the refugee alleged that initial food and financial assistance provided to help in relocation did not last long, as these refugees had no place to which to return. After spending most of their resources in day-to-day expenditures, this refugee was now starving. Also, the world food programme that took care of them had stopped financial assistance. During the interview she indicated that she had not eaten for nearly a week.

<sup>420</sup> As mentioned during interviews Vavuniya, June 2002.

of origin, but very few returnees' responses reflected the truth behind the possibility of restitution of properties to returnees.<sup>421</sup> Houses and properties were under the possession of other Tamil families, and evicting these families seemed difficult. In other instances, homes of returnees had been completely or partially damaged due to conflicts or were located within the High Security Zone (HSZ).<sup>422</sup> In some cases, refugees' home were under the occupation of the armed forces (as was the case in the Khagracharri) or unauthorized persons<sup>423</sup> or could not be re-occupied because of land mines.

### *The Politics of Ration*

The exact quantity of ration provided to returnees was based on the number of members in each returnee family. The quantity and quality of ration and distribution varied in different welfare camps in Vavuniya and Mannar. According to the government stipulation, each refugee was allotted a certain quantity of rice, flour, sugar, pulses, and a small monetary sum.<sup>424</sup> In Vavuniya, the amount of cash distributed varied in relation to the number of family members in camps. One person was entitled to 336 Sri Lanka rupees; two members were allowed 616 rupees; 3 members were given 840 rupees; 4 persons were given 1008 rupees and five and above were given 1260 rupees.<sup>425</sup> Those younger than 25 years of age were given 40 rupees. While returnees lived in the welfare camps in Vavuniya, the intensity of the conflict in Sri Lanka continued along with

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<sup>421</sup> As mentioned during interviews with returnee-refugees in Pessalai, June 2002.

<sup>422</sup> HSZ are areas demarcated beyond the perimeters of the Security Forces camps. Civilian movement is prohibited in these areas.

<sup>423</sup> "Unauthorized persons" includes the following: another person from the same areas, an IDP, a person occupying on the authority of armed, political groups, or armed political groups who may be occupying the premises.

<sup>424</sup> They were given 390 rupees every 15 days; 24 kilograms of rice; cash 75 every two weeks; elders were given 60 rupees. Cash or dole money, as it was popularly called, also varied in different camps in Sri Lanka.

<sup>425</sup> As determined by the Government of India in a directive to the Ministry of RRAN, 2002

intermittent peace efforts—primarily through the efforts of Norwegian peace brokers and the Sri Lankan Monitoring Mission (SLMM).

The lack of economic self-sufficiency was raised by many paharis, and one member of Repatriated Jumma Welfare Association asserted<sup>426</sup> that rations had been withheld as a method of controlling the Chakma/ Jumma returnees; Abdul Wadud Bhuiyan, a Member of Parliament from Khagracharri asserted,

The Ministry of CHT Affairs applied to the Prime Minister for providing ration with the Jumma/ Chakma refugees. In response to this application the Prime Minister informed that the Jumma refugees could no longer be provided with regular ration. It is also learnt from the concerned source that the Prime Minister Office had instructed to continue regular ration to the Bengali settler living in various cluster villages in the CHT, and to form a committee for their proper rehabilitation in the CHT<sup>427</sup>.

In response to these measures, Chakma/ Jumma refugees retaliated by organizing protests against the Government of Bangladesh and submitted a memorandum to the District Council of Khagracharri, leading to resumption of rations for three months. But at the end of three months, refugees were again informed that rations were meant for a six-month period and that Chakma/ Jumma returnees needed to manage with whatever was left of the three-month ration.

#### *Freedom of Movement and the Pass System*

The purpose of the pass system in welfare camps was to protect returnee-refugees.<sup>428</sup> Returnee-refugees were divided into different range of “pass categories;” some passes

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<sup>426</sup> As stated during interviews by members of the Refugee Welfare Association, Provakor Chakma, President, Refugee Welfare Association, Rangamati, CHT; Poritosh Chakma, Chairman of Union Parishad, Babachari, Dighinala (Khagracharri); Kubendra Lal Chakma, Convener, Ration Distribution; Anando Bikas Chakma, Ex-Chairman; Babuchachara Upazila, Dighinala; Utpal Chakma, member of Upazila. These members of Upazila along with Upendra Babu discussed the peace process of CHT.

<sup>427</sup> *Daily Ittefaq*, 29 August 2003.

<sup>428</sup> A claim made by government official in Sri Lanka, 2002

were more permanent than others. There were 14 different types of passes in various welfare camps. Since Vavuniya was a border town, it included the cleared (government-controlled) and uncleared (LTTE-controlled) land, and traveling in these zones required passes to gain access to government-controlled areas from LTTE-controlled areas. The duration of passes available to refugees' ranged from a few hours to three months. Travelling between different parts of Sri Lanka seemed impossible as it involved intense planning on the part of returnee families. Refugees living in transit camps found it difficult to travel from south to north (for medical reasons, for example) without availing themselves of the passes. In most instances, applicants had to provide full details of the purpose of the visits and wait until the government issued passes. Most of the time, refugees were required to produce some kind of identification, such as ID cards proving national identity, but refugees living in transit camps had limited documents to prove their status in Sri Lanka. People from uncleared areas were not allowed to move freely in Vavuniya town. They were kept in a transit camp until they were "cleared" at which point they were moved to a welfare camp. The displaced persons in welfare centres were allowed three-month passes to work in Vavuniya and had to return to the camp at the end of the day. However, since 2000, there have been a few changes in the pass system, but most of the restrictions still remain.

#### *Role of Groups (Tamil Rebel Groups and PCJSS) in the Peace Accord and CFA/ISGA*

Both PCJSS and the Tamil rebel groups were involved in the peace initiatives with the governments of Bangladesh and Sri Lanka respectively. The PCJSS and the Government of Bangladesh were able to broker the Peace Accord, which resulted in repatriation of all Jumma refugees from India. The Tamils, on the other hand, were periodically repatriated

as a result of peace initiatives such as ceasefires and peace talks (I have discussed various aspects of these arguments in previous chapters). However, the mechanism of integration of Jumma and Tamil returnees depends on various factors in addition to those discussed above. The peace initiative facilitated the repatriation process; however, it was also important to determine the sustainability of returnee integration. The groups repatriated from the asylum state were part of the minority groups in their country of origin, and their repatriation was contingent on the successful accommodation of these groups in the countries of origin. Moreover, repatriation had occurred on the basis of agreements of re-integration, i.e., either through sustained policies of power-sharing or on the basis of the implementation of the Peace Accord. In both cases, the continuation of policies of exclusion has led to the less-than-successful integration of returnees in countries of origin. However, the variation between the two returnee groups in countries of origin depends on the state's role in fulfilling either the Peace Accord or the ceasefire agreement. On the face of it, the Peace Accord in Bangladesh should have ensured "successful" reintegration of Chakma returnees as the Accord ensured more rights to Chakma people. Counter-intuitively, the Chakmas are worse off due to non-implementation of the Accord, in comparison to their Tamil-returnee counterparts in Sri Lanka. In this process, the role of PCJSS and Tamil groups must be examined to understand the variation in integration. The Tamil groups had failed to disarm, whereas the SB, the militant wing of PCJSS, was forced to disarm prior to the signing of the Accord. Moreover, the bargaining power remained with the Tamil groups as opposed to PCJSS, who failed to negotiate further with the state of Bangladesh both in relation to the



continuation of the exclusionary policies as well as the non-implementation of the Accord.

### *Citizenship Rights of Returnees*

The re-instatement of citizenship rights in countries of origin required proper identification of persons based on valid documents. Most returnees failed to provide documents to claim identities prior to seeking asylum in India. Children born in India to returnee-refugees had difficulties proving their Sri Lankan nationality. There were a number of children residing in Sri Lanka since their repatriation in 1999-2000 who lacked proper documentation.<sup>429</sup> Children born to Sri Lankan parents were automatically considered to be of Sri Lankan nationality; however, those born in a foreign land (India) were deprived of any such rights as they failed to provide the right documents. Often the registration of birth could be completed in the Sri Lanka Consular Services located in Tamil Nadu. But refugees residing in camps in India were frequently transferred to different camps, which made it difficult to keep track of paper trails; this resulted in poor documentation related to birth, death, and marriage. In addition, children born to parents married in India failed to show evidence such as "suitable marriage certificates."<sup>430</sup> Citizenship law in Sri Lanka determines "a person born after 15 November 1948 is a citizen of Sri Lanka if at the time of his birth his father is a citizen of Sri Lanka." The children born to Sri Lankan families in India failed to produce adequate proof of

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<sup>429</sup> According to ZOA, there are 124 families whose children are living without any birth certificate. Some of them have been issued documentation from India, which are invalid in Sri Lanka. ZOA has been communicating with the Sri Lanka consular service in Tamil Nadu to expedite the process of recognition. So far, about 84 cases have been retroactively approved by the consular services in Tamil Nadu.

<sup>430</sup> Based on data collected from ZOA and conversation with Raga Alphonsus, Programme Manager, Mannar. The internal communication between ZOA and the Sri Lanka High Commission-Chennai, the Deputy High Commissioner, dated March 26, 2002, stated, "action regarding these issues would be undertaken at the earliest."

belonging to Sri Lanka (birth certificate or passport). The terms and conditions stipulated under the citizenship laws instruct that birth registration is imperative within a three-month period of the birth of the child. In both instances, the Consular services can be availed of, to register both birth and death, but problems arose more in relation to birth, which was evident when refugees were repatriated to their countries of origin.

In terms of availing of rights of citizenship, the Chakma did not have additional problems of determining their rights like the Tamils. Rather, they had difficulties finding jobs as most of them still encountered problems while leaving the CHT region. Low job opportunities and poor land restitution rights made Chakma refugees seek jobs outside the hill areas. But in the mainland, their position was rather precarious as there were fewer jobs. Furthermore, the Peace Accord had stipulated terms that promised employment to those who had held jobs previously to seeking asylum in India, but the Chakma returnees soon realised that these terms and conditions are far from being realised.

Based on the interviews, I assert that the Chakma returnees encountered more problems of re-distribution, managing relief and rehabilitation, and security concerns in the post-repatriation context, than the Tamils. Also, the problem of negotiating inclusion of Chakma seemed more complex than it had been for the Tamils. I assert that the prospect of Chakma re-integration was less optimistic than the Tamils' prospects, despite having a Peace Accord that stipulated conditions of accommodation. Counter-intuitively, the Accord disempowered the Chakma returnees from further negotiation, which left the question of non-implementation with the actors involved in the process of re-integration. These conditions were related to land re-acquisition and de-militarization to facilitate the re-integration of Chakma returnees in Chittagong Hill Tracts.

In the context of land re-distribution, financial assistance, and ration distribution to Chakma refugees, they were poorly off compared to the Tamils returnees who did marginally better. But in the context of freedom of movement, there were more restrictions on Tamil returnees than on the Chakma returnees. Upendra Chakma,<sup>431</sup> the leader of Jumma Refugee Welfare Association asserted “the accord has failed to deliver goods to Jumma people.” Nearly half of the Jumma people since repatriation were still without basic needs, like land and homestead, as stipulated in the Accord. There were irregularities in ration distribution, and the continued presence of armed forces in CHT made Jumma families feel “unsafe.” The Tamil returnees had similar problems of re-distribution of resources, but theirs were less severe than the Jumma’s. The presence of international agencies facilitated the ration distribution to Tamil returnees, as opposed to Chakma returnees. But in relation to the lack of a coordinating body and interventions from international NGOs, the Chakma were in an impossible position to be able to return “home.” Also the UNHCR and other local agencies appear to have been actively involved in the problems of relief mechanisms in Sri Lanka, and more so, than those in Chittagong Hill Tracts. Furthermore, the polarization of Jumma people on different lines based on sympathizers and opposition to the accord made CHT a violent place, and yet another reason for the NGOs to “pull out” which also reflect the need of Chakma/ Jumma to re-negotiate with the Government of Bangladesh.

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<sup>431</sup> In an interview in Khagracharri, 19 August 2002, Member of the Parliament Upendra Chakma expressed his anguish at the non-implementation of the Accord.

### *Returnees' Vision of "Home" and "Homeland"*<sup>432</sup>

The Tamil insurgent groups' view of "home" is based on a separate state for Tamil people based on "original habitation," and the refugees generated as a result of this conflict, tends to view "home" more in terms of a place to return and engage in early forms of livelihood. Moreover, the politics of belonging in countries of asylum and origin encourages refugee communities to maintain ties with their homeland. The special bond between refugee communities and their respective homelands remains firm in the memories of refugees as they struggle to survive in the country of asylum. The sense of "loss of homeland" is carried on through various generations among refugee communities living in exile. The concept of "home" and homeland are important in the refugee narrative, especially in the absence of such rights in exile. In Chapter 3, I argued why the asylum state discriminates against refugee rights, and I discussed the conditions under which repatriation may occur. Refugees accept their rights are limited in exile, and sometimes they voluntarily acknowledge the process of return through various notions and ties with "home" and homeland. But some refugees make a clear distinction between "home" as a place to which to return and the insurgent's viewpoints on homeland. The links between "home" and sense of "belonging" by refugee communities in asylum state can be studied from different perspectives. First, belonging is based on ties to home, enabling refugee communities to form a distinct identity, to rally around identity-forming criteria, and to be able to remain a collective in exile. The strength as a collective is reaffirmed based on memories of a shared sense of homeland and the hope to return.

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<sup>432</sup> Homeland as discussed in this chapter does not coincide with the insurgent groups' views on separate "homeland." The secessionist struggle in Sri Lanka and LTTE demands of separate "homeland" has not been discussed in this chapter; based on refugee narratives "homeland" is often distorted with "home" the place of exact displacement and a place to belong. None of the refugee groups directed asserted that they were keen to have a separate homeland during their stay in country of origin. However, refugees during the period of exile were keen to express their opinion on what "homeland" meant, as opposed to "home."

However, “home” is viewed differently by refugee groups. It is an important marker that binds refugee groups and can influence decisions to repatriate (as seen in the section on disparate viewpoint of home). In the absence of opportunities to create new ties, memories of “home” can be a strong bond among refugee groups. According to the place attachment model, the concept of home is a fixed place. Malkki (1995), Hammond (1999), and Allen (1996) and Turton (1996) posit that refugees can be involved in the process of emplacement in exile and create different version of “home,” i.e., through stories and practices, refugees create relations in exile and attribute different meaning of “home.” The return process embodies an alternative vision of the nation state, which changes with actual return of refugees. Instead of a very concrete return to “places of origin,” refugees move towards a more abstract concept of return that is a political act in the national arena, an act of conquering the right to active national citizenship through repatriation. “Homeland” or return to “home” remains one of the most powerful unifying symbols for mobile and displaced peoples, though the relation to homeland may be very differently constructed in different settings (Malkki 1992).

The Chakma and Tamil refugees in India did not engage in the process of emplacement (re-creation of “home” in exile as opposed to believing “home” in country of origin) as discussed by Malkki, nor did they engage in placement attachment (i.e., “home” as a fixed place and the necessity to belong in country of origin). Rather, testimonies by individuals in the two refugee communities in the period of exile prove that most refugees agreed that the period in exile was temporary, and repatriation was the means of regaining the loss of identity.<sup>433</sup> The refugee narrative of return was associated

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<sup>433</sup> Almost 80 percent of Tamils and Jumma camp refugees (based on interviews conducted in Tamil Nadu and Tripura in India), accepted that the period of stay in exile was temporary. Since they lived in isolation

with the ability to “resume normal lives in home” and to act as citizens in their homeland. I will discuss the concept of “homeland” perceived by the refugees to highlight possibilities of rehabilitation in returnee-narrative.

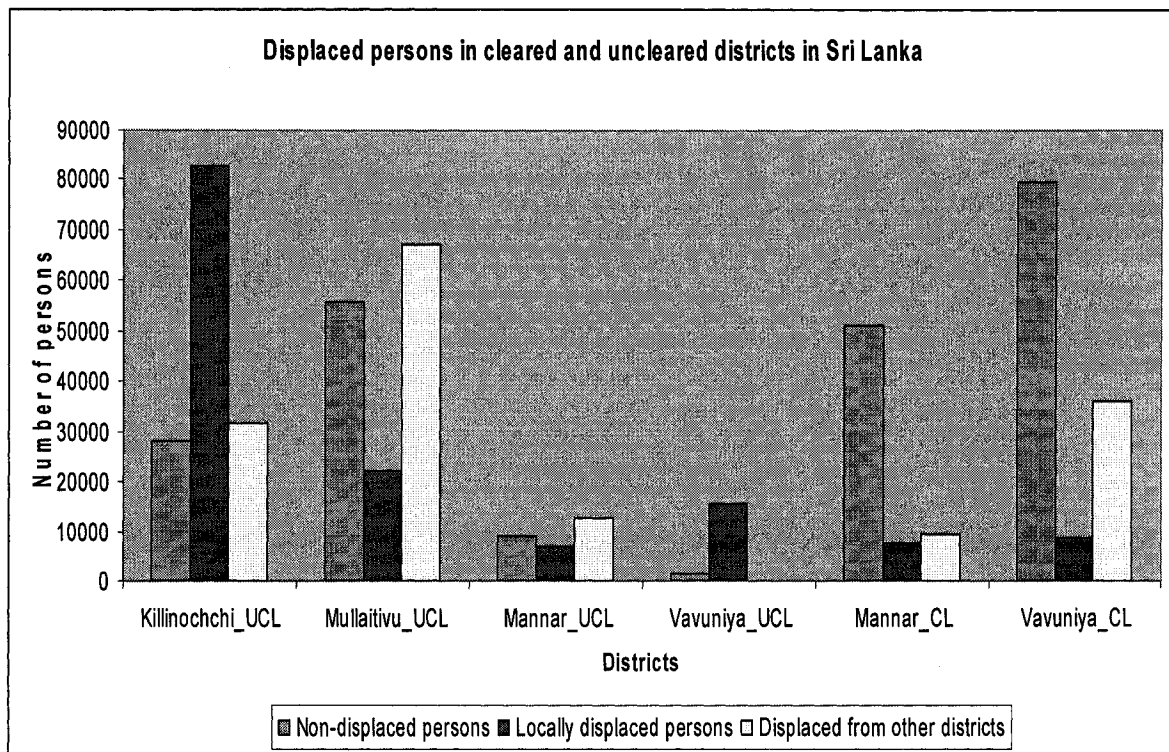
“Home” to a large extent was intertwined with homeland and did not coincide with the insurgent groups’ (LTTE and SB) viewpoint to carve out a separate homeland, i.e., either a Tamil Eelam or Jummaland. To refugees, the relationship between “home” and homeland is an interactive process. In both instances, refugee repatriation occurred during the period of suspension of violence, beginning of negotiation and peace talks to resolve the problem of minority representation, which also coincided with beginning of the peace process or ceasefire. The returnee reconstruction in countries of origin is therefore tied to the peaceful resolution of conflicts in Sri Lanka and Bangladesh, which was apparent in the case of Tamils. As repatriation did not offer refugees a return to their original place of habitation, the success of reconstruction was marginal. The relationship between the outcome of conflict is related to possible reconstruction of refugees in countries of origin, and more so in the case of Chakma/ Jumma refugees. Refugees were reluctant to express opinions on whether the separate statehood would lead to successful rehabilitation; rather, refugees accepted the possibility of homeland as a place to which to return. The Tamil conflict in Sri Lanka has deep historical roots, which was further politicized in the aftermath of postcolonial politics. The first batch of Tamil refugees repatriated from India occurred during the signing of the Indo-Tamil Accord in 1987. The prolonged ceasefire of 2002-2005 was the longest spell of cessation of mass-scale violence in the history of Sri Lanka. In 2003, the LTTE pulled out of the talks, and in 2006, Sri Lanka appears once again to be caught in the spiral of killing, counter-retaliation, and counter-offensive

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and in camps, they also agreed that “home” was either Sri Lanka or Chittagong Hill Tracts.

between the Tamil Rebels and the Sri Lankan army. The ceasefire of 2002-2006 created conducive conditions to facilitate opportunities among returnee families in move to a safe place of stay. Furthermore, the ceasefire created conditions of stability and better circumstance to allow internally displaced persons to access other hitherto inaccessible parts of Sri Lanka, i.e., those under the jurisdiction of Tamil rebels.

*Return of Displaced Persons in Cleared and Uncleared after Ceasefire*



Source: Ministry of RRR, 2002

In the graph, there are three categories of significance: first, the non-displaced population; second, the locally displaced; and third, the displaced from other districts. The people belonging to the third category were those who had entered parts of Sri Lanka at the time of repatriation but had not “originally belong there.” The number of locally displaced persons is much higher in Kilnochchi uncleared in relation to Vavuniya cleared.

The Vavuniya uncleared has the lowest number of locally displaced persons. The locally displaced persons appear to be highly concentrated in the uncleared part of Kilnochchi, as the Tamil rebels imposed strict rules of refugee mobility. Sometimes permission was denied to leave the uncleared territory.<sup>434</sup> Also, a few refugees asserted that the LTTE jurisdiction had rigorous rules, and refugees had little choice but to abide by these rules.<sup>435</sup>

Since the beginning of the ceasefire in Sri Lanka there has been relatively more movement of the refugee population within Vavuniya compared to the situation prior to the ceasefire, when the situation was flexible. The Tamil rebels controlled certain northern and eastern parts of Sri Lanka, which were officially off-limits to the Government of Sri Lanka, unless prior permission was sought through proper channels of communications with Tamil rebels in Sri Lanka. But the Tamil rebel-held locations were accessible to the monitors of ceasefire, i.e., the Sri Lankan Monitoring Mission.

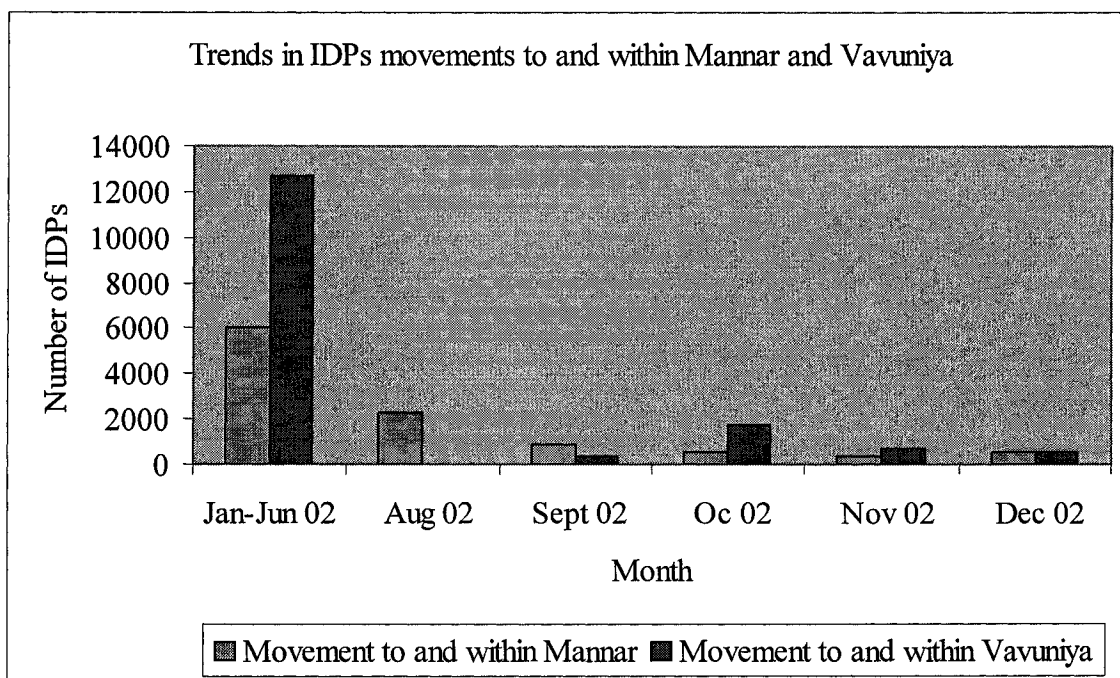
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<sup>434</sup> Based on a few testimonies of Tamil refugees who had lived in LTTE-dominated locations. The only method of leaving was fleeing to India, and re-repatriated to Sri Lanka. Few Tamil refugees belonging to the category of recyclers attested to these notions when interviewed in a different part of Sri Lanka in June 2002.

<sup>435</sup> Some returnees had entered the LTTE-dominated part of Sri Lanka had difficulties adjusting to the rules imposed by the LTTE. Some of these returnees I interviewed in Vavuniya welfare camps in Sithamparampuram had different narratives regarding their ways of lives in LTTE-dominated areas. One interviewee mentioned since they had been residing in welfare camps for a long time, they had decided to enter the LTTE areas, as they had originally belonged to the eastern part of Sri Lanka. However, once they entered, they realized that in terms of mobility they had fewer rights compared to living in welfare camps. Another family had a different story to tell regarding how oppressive the LTTE were in terms of movement and engaging in any kind of employment. Some were not allowed to leave the LTTE-demarcated zones and were provided strict instruction when they should return, etc. It was also mentioned during the interview, that "life was so restricted" that the family was forced to flee to the government-controlled parts of Sri Lanka.



*Situation of Tamil IDPS (Returnee-Refugees) Since Ceasefire in 2002*



Source: Ministry of RRR, 2002

The graph indicates the conditions of peace have created a new impetus within the refugee population to initiate movement, which may be a step toward integration. The number of internally displaced persons has steadily decreased since the ceasefire in 2002. The numbers were at their highest during January-June 2002, in both Mannar and Vavuniya. However, this does not indicate the trend in other parts of the north and eastern parts of Sri Lanka. Since the conflict in Sri Lanka was mostly confined to certain geographical locations of the country, some were more adversely affected than others. In relation to either resettlement or relocation, returnees preferred to reside in the welfare centres or move away from the conflict-ridden areas. Few returnees were able to relocate as land was scarce, and according to the government agents in Vavuniya and Mannar,

“refugees belonging to Mannar would be given preference over others.”<sup>436</sup> Also, some returnees attested that the government agents preferred to relocate those belonging to Mannar district first as opposed to providing equal rights to relocate to those belonging to Trincomalee.<sup>437</sup> Despite a large number of refugees residing in welfare centres and fewer in relocated camps, returnees seemed optimistic about a peaceful settlement of the conflict in Sri Lanka. One returnee asserted to “peaceful settlement will finally enable me to reach home, where I can die in my home.”<sup>438</sup>

There were apparent differences in the outcome of repatriation of the two refugee groups to Sri Lanka and Bangladesh. Some of these differences were intertwined with ongoing conflicts in the countries of origin. The protracted conflict in Sri Lanka affected the scope of rehabilitation of Tamil returnees. The Jumma refugees, on the other hand, appeared to be on a firmer ground. The Peace Accord privileged the position of returnees, whereas the CFA failed to prioritize the opportunity to rehabilitate the Tamil returnees. The international agencies involved in mediating the CFA and Peace Accord had a decisive role in monitoring the reconstruction process of returnees in their countries of origin. In the case of the Jumma refugees, the involvement of the international agencies lessened considerably as a result of the Accord. The donor countries were expected to

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<sup>436</sup> As mentioned in an interview with the Government Agent Mr. Vishwalingam, Vavuniya, June 2002.

<sup>437</sup> During interviews in the welfare camp in Vavuniya, in June 2002, three interviewees alleged that despite residing in welfare camps for longer periods of time, some were given preference to relocate as opposed to others. These interviewees asserted that they belonged to the eastern parts of Sri Lanka and were unable to relocate in the Mannar region. These interviewees who were residing in welfare camps in Vavuniya would have taken the opportunity to relocate in Mannar but were sidestepped, since they “originally belonged to eastern parts of Sri Lanka.” The relocated returnee-refugees had lived for lesser duration in comparison to the interviewees.

<sup>438</sup> In an interview in Pessalai camp in northern part of Mannar, an elderly woman asserted, “we have been living in trapped situation for a long time.” Having lived in the camp for nearly six years, the returnee was ready either to return to India or at least to stay until a peaceful solution could be found to resolve the Tamil conflict. During the interview I asked her whether the problem of Tamils in the east could be resolved with a peaceful solution to the conflict. K’Amma asserted that most of the refugees had been send back from India due to the ceasefire and having a peaceful solution to the conflict was a factor in the refugees returning to their place of dislocation.

have a proactive role in determining the empowerment of returnee families in Sri Lanka. The Sri Lankan case witnessed considerable interaction with international agencies, first at the level of monitoring peace process; second, there was a higher percentage of internally displaced persons in Sri Lanka. The agencies also pledged to provide financial assistance, especially toward income-generation of refugee families. The Chakma/Jumma returnee situation was intertwined with re-distribution of land. The Accord was the framework that would finally enable the process of re-distribution. The Government of Bangladesh implemented some of the political component of the Accord, such as creation of CHTDB and the Ministry CHT Affairs.

Refugees had little knowledge of “home,” which was more seen as part of the homeland, as place to belong to, after repatriation to country of origin. Homeland to returnee families is a place to stay—away from the welfare camps. The refugees, in their narratives, were clear that their idea of homeland was different from those viewed by Tamil rebels and UPDF of CHT, but they were also aware that the maintenance of ongoing peaceful conditions would finally enable them to reach “home” and take them away from the welfare camps.

#### *Locating “Home” in Homeland?*

The successful and amicable resolutions to the question of Tamil and Jumma struggle in Sri Lanka and Bangladesh are tied to the rehabilitation of returnees in countries of origin. The resolution to the ongoing conflicts in Sri Lanka and Bangladesh will enable refugees to locate “home” in their countries of origin. The refugee groups, the Tamils and the Chakma, were repatriated after the signing of Peace Accord in Bangladesh and the beginning of the ceasefire in Sri Lanka. In Sri Lanka and Bangladesh, the concept of

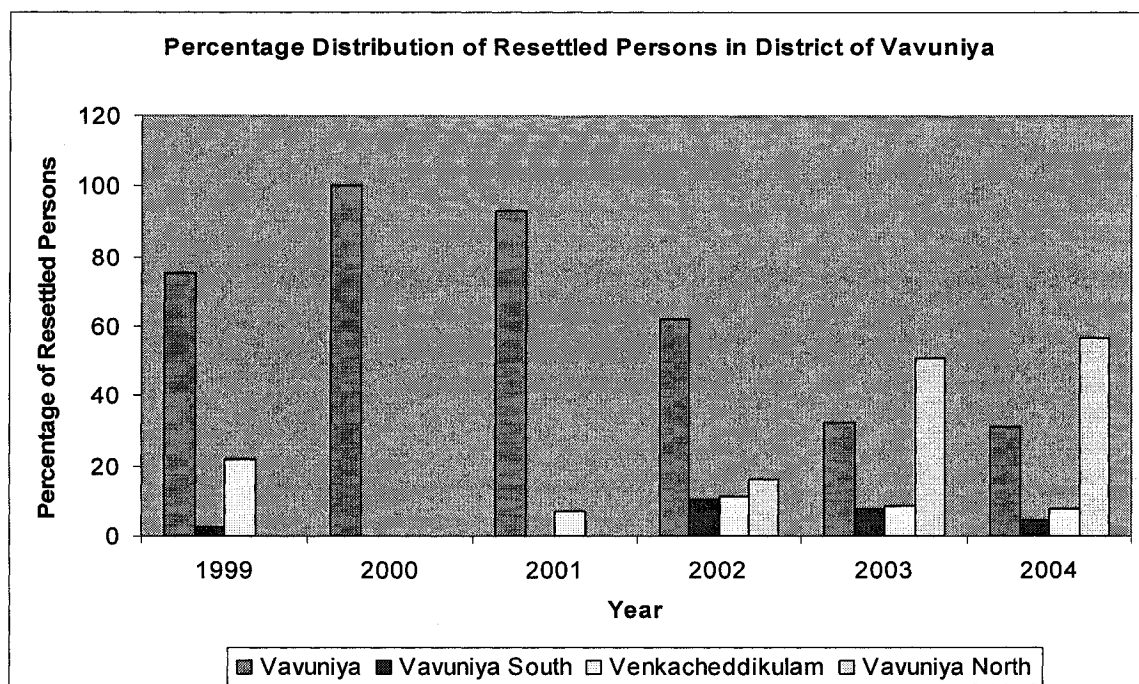
homeland has often been associated with the insurgent viewpoints of separate land. The refugees were caught in the struggle of homeland as viewed by the LTTE secession, as opposed to the Jummaland (van Schendal 1992), that is, a homeland based on the concept of oneness with other paharis in the Chittagong Hill Tracts. The Tamil returnees were primarily concerned with the possibility of retuning “home” as they continued to reside in government-managed transitory camps, while Chakma/ Jumma were transformed into internally displaced persons without the possibility of being able to return “home” and resume normal lives. In both these instances, the future of returnee communities in terms of reconstruction was tied to the outcome of the ongoing conflicts in Sri Lanka and Bangladesh.

Refugees interviewed in Vavuniya, Mannar, and Khagracharri did not view “home” and homeland as a separate territory or outside the territorial domain of Sri Lanka or Bangladesh. Rather, the refugees asserted that the continuation of peace process was a factor that influenced the rehabilitation of returnees immensely. Despite indirect claims of returnees with the final outcome to ethnic conflict in Sri Lanka, the Tamil returnees realized that a firm resolution would enable the process of rehabilitation and return to “home.” Since the ceasefire in 2002 and the continuation of the peace process, a large number of returnees have been able to resettle in Vavuniya. The table below indicates that since 2002, more and more Tamil refugees are able to resettle in Vavuniya North (rebel-controlled areas).

But in post-repatriation context, neither the Peace Accord nor the CFA addressed the problem of resolving the Tamil and Jumma question. Rather, they attempted marginally to redress the grievances of two minority groups through devolution packages and

pledged to find a solution acceptable to parties engaged in the separatist struggle. Also, the refugees on their part did not attest to any particular manner in which the minority representation would resolve the rehabilitation in countries of origin. The Tamil and Chakma refugees accepted that repatriation would result in a return to home. In this section I seek to develop returnees' perspective of homeland and how it is related to "home."

### *The Distribution of Resettled Population in Vavuniya*



Source: Ministry RRR May 2004

The graph above indicates that the Tamil returnees have resettled less in Vavuniya north compared to others in Vavuniya, Vavuniya South, and Venkadacheddikulam. In 1999, 2000, and 2001 a large percentage of Tamils were resettled in Vavuniya town, a relatively calm and government-controlled town. However, in 2003 and 2004, since the ceasefire, Vavuniya North seemed a more amicable place to resettle to Tamils. But there

were contradictory statements from various returnees on basic amenities available to refugee families in rebel-held areas. In some cases, refugees preferred to go back to welfare camps or “go back to their village”<sup>439</sup> rather than stay in the rebel-controlled areas. Also refugees were stranded in these locations (as they were prevented from leaving premises without proper authorization). Since the ceasefire, the confidence levels among the refugee population residing in the fringes of the Government and Tamil rebel seemed low because access to government-controlled territories was still difficult. The Tamil returnees were relatively less inclined to resettle in Vavuniya North prior to the ceasefire in 2002, which is under the jurisdiction of LTTE. The LTTE-dominated locations were less readily available to Tamil returnees; often the government actively resisted resettlement. Based on testimonies of returnees in various welfare centres, some refugees were interested in residing in the Vanni soon after the ceasefire, but they failed to gain “permission” from the Government of Sri Lanka and were also refused by the LTTE. Prior to 2002, more returnees were inclined to reside in Vavuniya town, and less so in Vavuniya South and Venkadacheddikulam, and even less in Vavuniya North.

The Tamil ethnic struggle conceptualized a separate “homeland” for Tamils in Sri Lanka in contrast to returnee vision of “home.” The concept of a separate homeland had evolved from issues of self-determination to a now federal power-sharing with sizeable representation of Tamils. Since 2006, the prolonged ceasefire brokered by Norway in 2002 has been challenged through severe in-fighting between LTTE and other Tamil rebels—the Karuna faction and the Government of Sri Lanka are attempting to control the movement through acts of violence. The returnee communities in Vavuniya and Mannar

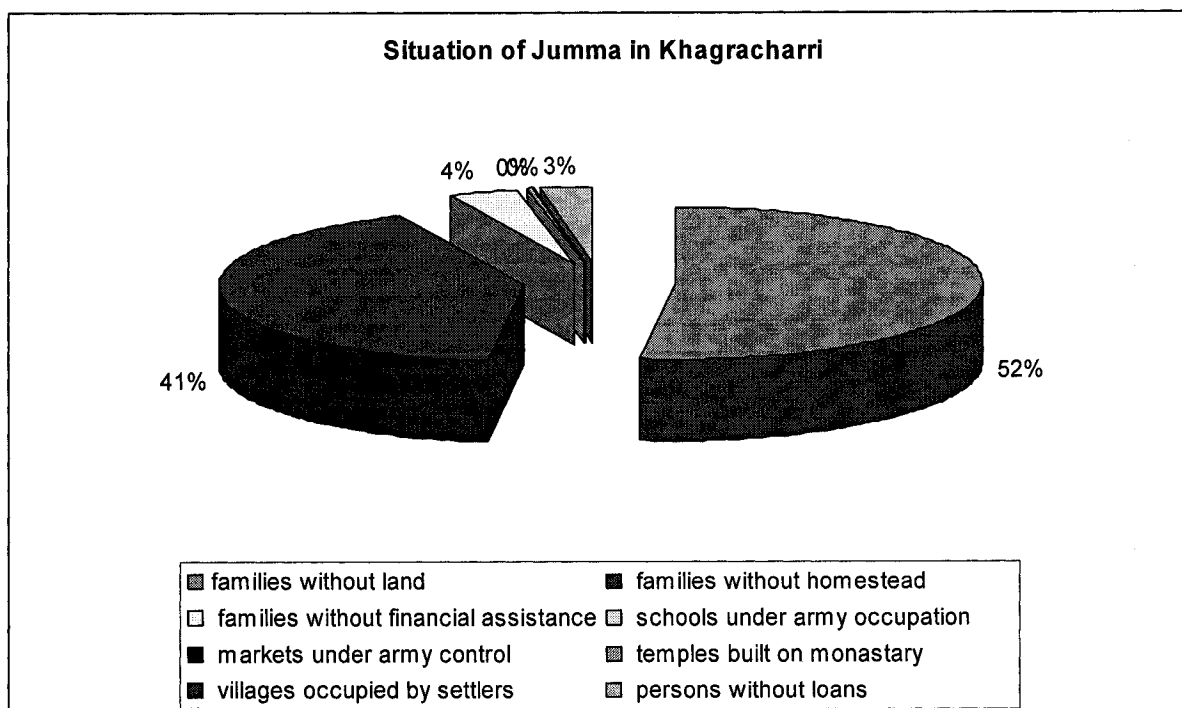
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<sup>439</sup> Interviews with groups of Tamil refugees after their return from Vanni, June 2002. These refugees are presently residing in Sithampapuram welfare camps in Vavuniya.

did not have expressed opinion on nature of “homeland” as envisioned by the Tamil rebel group, LTTE, assuming normal everyday lives in Sri Lanka seemed more appealing.

In the case of the Jumma people, the Peace Accord between the PCJSS and the Government of Bangladesh had led to the repatriation of Chakma refugees in CHT. The concept of Jummaland (as discussed earlier) did not involve a separate homeland of Jumma people. The Peace Accord enabled peaceful repatriation from Tripura to Chittagong Hill Tracts. But returnees alleged that the terms of the treaty have not been fulfilled, and the situation of the returnees appears to be rather grim. The Chakma refugee repatriation predetermined possible rehabilitation of refugees in homeland.

#### *Situation of Jumma Returnees in Khagracharri*



Source: Chittagong Hill Tracts Jumma Repatriated Association, 2002

The pie chart represents the Jumma-returnees in 2002; as seen in the chart, nearly 52 percent of Jumma refugees are yet to be provided with land; 41 percent are without

homestead or other holdings. A large percentage of the population of Jumma refugees were inadequately provided by the Government of Bangladesh, which was in violation of the terms and conditions of the Peace Accord. In terms of settlement packages, both refugee groups, the Jumma and the Tamils, were inadequately provided for by the Governments of Bangladesh and of Sri Lanka, respectively. As discussed in these two cases, the returnee-groups were unable to rehabilitate and expressed their discontentment toward resettlement provided by countries of origin. But as illustrated by the pie chart, more than 52 percent of the population is without land, which means they have been unable to re-possess land originally under the control of settler families. The success of Jumma rehabilitation was dependent upon the reinstatement of land and homesteads to returnee families. Based on Report of Jumma Refugees' Repatriation Association, a large number of families are residing in poor conditions. The scarcity of land and adverse land-inhabitant ration in CHT was one of the failures of implementation of Peace Accord.

In the absence of feasible rehabilitation, the Jumma refugees seemed unlikely to accept the present conditions in CHT. The Jummaland as a movement never had the strength of three Eelam wars; also, the Jumma are now divided on whether they were hasty in accepting the Peace Accord.<sup>440</sup> The signing of the Peace Accord was resisted by other factions of PCJSS called the Priti faction. The Priti faction of the PCJSS has now vowed to continue the struggle until paharis are provided adequate political representation. The terms of representation have been adequately addressed in the Chittagong Hill District Board, but few are satisfied. Similarly, the Tamil struggle for adequate representation was addressed through various devolution packages that however failed to address the moot issue of repatriation.

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<sup>440</sup> In conversation with members of Priti faction of PCJSS, Dhaka, August 2002.



In terms of returnee viewpoints and their implication on these movements, it seems the Tamil returnees were initially eager to return “home” and agreed to forgo the idea of a separate homeland. The returnees interviewed in Mannar and Vavuniya welfare camps were eager to begin their new lives since their repatriation to Sri Lanka. Though “stuck in limbo,” very few had strong views on homeland. There seemed to be a certain degree of fatigue on the part of the refugees, and very few had firm opinions regarding the possibility of a homeland. As opposed to Tamil refugees interviewed in camps in Tamil Nadu, India, refugees were concerned that “the problem needed to be resolved amicably.”<sup>441</sup> Those in exile in India had strong views on a Tamil homeland. In comparison, Tamil returnees were reluctant to voice opinions on resettlement and seemed optimistic on opportunities of rehabilitation in the future. The Jumma refugees, on the other hand, were extremely unhappy and have vowed to continue their struggle once again. The Jumma returnees were aware of their precarious position and did not advocate a separate territory of Jummaland to be carved out of Bangladesh. The returnees in Dighinala, Khagracharri, were residing in grim conditions with irregular rations and interventions from the Government of Bangladesh. The immediate needs of these returnees were to create a permanent shelter instead of continuing to reside in makeshift camps and schools.

There are similarities between two cases—both are conflict-induced refugee-generation and the cessation of violence was a predominant factor in repatriation—therefore, successful repatriation depended on the continuation of these conditions. The Tamil returnees appeared reluctant to discuss the nature of resolution of the conflict, which should be natural given their precarious conditions in government-controlled areas

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<sup>441</sup> As mentioned by various interviewees in Gumudpundi camp, Tamil Nadu, July 2002.

or LTTE-controlled locations; they were still ambivalent towards the nature of homeland. The ambivalence of Tamil returnees towards a Tamil homeland could also be due to the nature of the ceasefire in 2002. During this period, both parties had “good intentions” to find an amicable solution to the Tamil question, which essentially meant LTTE had promised to renounce the issue of self-determination of Tamil people. Notwithstanding exact reasons, the Tamil returnees were inclined towards peace as an essential component in the reconstruction and rehabilitation process in Sri Lanka. Both refugee groups were repatriated by means of re-acquiring or regaining the lost identity in exile. The differences between these two cases had more to do with the meaning of homeland—the Tamil returnees viewed it as an extension of “home,” whereas some located “home” within homeland and others as a mutually exclusive category. The majority of Jumma and Tamil returnees did not necessarily accept homeland as a solution to the problem; rather, they were predisposed towards reconstruction process. The Jumma refugees on the other hand were frustrated with the situation and are now supporting Priti faction to negotiate the resettlement package and at least address issues related to land distribution and re-possession of land under the control of the settler population, residing in CHT under the protection of the Bangladesh army.

### ***Disparate Viewpoints of “Home” among Tamils and Jumma Returnees***

“Home” is a significant component in the refugee narrative in exile. The positions of refugees as aliens and uprooted clearly sketch refugees’ course of action in exile. In this section I delineate the meaning of “home” from the refugee perspective, and second, I determine what “home” means to refugees based on interviews in countries of origin in Sri Lanka and Bangladesh.

On the basis of testimonies of returnee-refugees in countries of origin, I have constructed a typology of returnee-refugees' attitude on "home." Based on interviews I infer that "home" can be perceived differently by returnees, depending on their present location of stay. The difference depends on the place of location of returnee communities, the levels of expectation, and the duration of their stay in the countries of origin. The various categories of returnee-refugees are: first, the returnees residing in camps (open relief camps) in countries of origin; second, returnees residing in government-organized welfare centres; third, returnees resettled or relocated in countries of origin; fourth, returnees willing to go back to India (could be located in welfare centres or open relief camps in Bangladesh and Sri Lanka); and fifth, refugees abandoned by the country of origin, known also as recyclers.

First, returnees residing in temporary housing (open relief centres) should be distinguished from those residing in welfare centres. The open relief centres were located near points of entry in Sri Lanka. For example, during the repatriation process, Tamil refugees were allowed to enter Sri Lanka through various points of entry. Most of these points of entry had shelters constructed by the UNHCR and the Government of Sri Lanka to provide returnees some basic relief during their entry to "home." However, in reality, some of these open relief camps were built under instructions from the UNHCR, which decided where refugees were housed and cared for until they were prepared to be moved to another permanent location, that is, the place of original habitation. The returnee-refugees realized that they had no other place to go to, as their place of origin was either under LTTE control, or the Government of Sri Lanka had imposed restrictions on their

return due to unsafe conditions.<sup>442</sup> The Pessalai open relief centre housed 3999 persons (mostly repatriated refugees from India) unable to return to their place of residence. The other open relief centre was located in Madhu open relief centre (ORC), which housed 8252 persons, under the jurisdiction of LTTE, and beyond the control of the Sri Lankan government or humanitarian agencies.<sup>443</sup> In comparison, Mannar had most of the ORC centres that were located in Pessalai and Madhu.

Second are refugees residing in government-managed welfare centres for a long period of time. According to the report prepared by the UNHCR, there were 14 welfare centres<sup>444</sup> in Vavuniya district (including the Sanasa transit camp and Kovilpuliyanakulam). The total number of internally displaced persons in welfare centres was 16,793 persons, and the number of internally displaced persons residing with friends and relatives was 53,812.<sup>445</sup> Besides these ORC, the welfare centres provided semi-permanent basis of accommodation as opposed to an ORC. In Mannar, there were three welfare centres, one in Mannar (Pessalai ORC housed 3990 persons) and two in Nanaddan (Jeevodayam and Kalimoodai housed 2001 persons). However, there were about six in uncleared areas: two in uncleared Madhu (Madhu ORC and Palampity housed 11,682 persons) and four in uncleared Manthai (Paliaru, Vellankulam,

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<sup>442</sup> The open relief camp in Pessalai was in abysmal condition. Most of the hay rooftops had disappeared and failed to provide returnees any protection against natural calamities. The returnees stated that they had to forgo food.

<sup>443</sup> Refugees located in uncleared areas asserted that government was "lax" in sending relief, and the LTTE managed to provide them with basic amenities. Since the ceasefire in 2002, refugees were allowed to move around from cleared to uncleared land but needed to get a pass from higher authorities (LTTE in uncleared areas; and government officials in cleared areas). But the pass system was a difficult and tedious process.

<sup>444</sup> The welfare centres were located in Vavuniya district, which accommodated 16,624 persons. These camps were Poonthoddam WC 1 (888 persons); Poonthoddam WC 2 (838 persons); Poonthoddam WC 3 (800 persons); Poonthoddam WC 4 (799 persons); Poonthoddam WC 5 (1027 persons); Poonthoddam WC 6 (728 persons); Poonthoddam WC 7 (836 persons); Poonthoddam WC 8 (810 persons); Poonthoddam WC 9 (693 persons), Nelukulam (789 persons); Sanasa (91 persons); Sithamparapuram (5834 persons); Adppankulam (1439 persons); and Kovilpuliyanakulam (1061 persons). Report prepared by UNHCR Office, January 2002.

<sup>445</sup> UNHCR Field Report, 2002

Moorampiddy, and Illupaikavai housed 5592 persons). Refugees residing in welfare centres and ORC were susceptible to governmental restriction on movements and employment opportunities. The returnees were not allowed to leave the camp premises to work in the uncleared territory. Moreover, LTTE-controlled areas remained off limits to returnees. The interviewees in both welfare centres in Vavuniya and Mannar complained of living in cramped conditions. Most of them have been living in these camps for nearly 12 years. Unlike those residing in ORC, returnees in government-managed welfare centres were provided opportunities to relocate temporarily until “situations improved in place of residence.”<sup>446</sup> In comparison, images of Chakma/ Jumma in the Chittagong Hill Tract’s Khagracharri district were quite blurred. They lived mostly in run-down camps with little state aid and mostly worked menial jobs to make a living. The idea of “home” as seen by Chakma/ Jumma refugees was slightly different, as their idea of “home” was better negotiated: “home” became intertwined with homeland, which was to be able to return to Chittagong Hill Tracts.

Third, returnees were temporarily relocated to prevent further burden on welfare centres. The crash programme constituted by the Government of Sri Lanka worked in conjunction with other foreign aid agencies in 2000; it relocated 340 families from Vavuniya welfare centres. These families were originally from Mannar but failed to return to exact place of origin were relocated in Madhukarai (100 families were given one acre of land), Maruthemadhu (100 families were given half an acre of land per family), and Chilavathurai (140 families with a quarter of an acre of land, which was still undecided by the government). Returnees permanently relocated had different experiences compared to those residing in temporarily relocated land. The refugees who

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<sup>446</sup> Interview with returnee, Sithamparapuram camp, Vavuniya, June 2002.

were permanently relocated were close to leading a “normal” life and were into the process of integration within the socio-economic fabric of Sri Lankan society. Refugees temporarily relocated had to endure many uncertainties in their day-to-day activities. Their lives were full of authorities monitoring mobility and restrictions on movement between camps. It was during this period that nearly 300 families were temporarily relocated to Thoddaveli village. Some of these refugees originally belonged to the LTTE-controlled areas, where the government and aid agencies had little access. Therefore, there was little information regarding those residing in the LTTE-controlled areas. Thus, there were differences in testimonies of returnees in welfare camps, relocated camps, and resettlement areas.

The fourth group consisted of returnees residing in camps but who were inclined to return to India at the earliest opportunity. Most refugees residing in government-controlled areas originally belonged to the LTTE-controlled areas, but they did not have government permission to return to their villages. In 2001, the government implemented the crash programme that relocated internally displaced persons to north of Vavuniya without the “informed consent” of the IDPs.<sup>447</sup> There were allegations that the Government of Sri Lanka had acted unilaterally against the interest of IDPs and failed to acquire consent prior to relocation. Furthermore, the government prevented IDPs from entering the LTTE-dominated locations as these territories were outside the government’s jurisdiction. Most of the IDPs residing in camps were from the LTTE-controlled areas in the Jaffna, Batticalao, or Trincomalee. Sometimes the government attempted to physically prevent IDPs from entering from the LTTE-controlled areas.<sup>448</sup> However, in

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<sup>447</sup> As stated during interviews, Vavuniya, Sri Lanka, June 2002.

<sup>448</sup> There were allegations that the Government of Sri Lanka had stationed police in order to prevent

another instance, returnees alleged that government officials had forcibly sent returnees to the LTTE-dominated areas.<sup>449</sup>

In the fifth category is refugee communities residing in old schools and abandoned by the Government of Bangladesh. Since the repatriation of Jumma refugees in 1998, very few<sup>450</sup> have been able to reclaim their land and homesteads from the settlers population in the Chittagong Hill Tracts. In Khagracharri district interviews were conducted in two locations, Milonpur School and Dighinala School, which housed families in dire conditions, often living without any rations. “Home” to these refugees was a mobile category that allowed the possibility of seeking permanent housing and a certain degree of certainty for their future. The Jumma refugees in Dighinala had few amenities and had to live in poor conditions. Returnee families complained that they had been “forsaken”<sup>451</sup> by the Government of Bangladesh. “Home” as a concept had little meaning to refugees, and they had general disregard toward the inability of Government of Bangladesh to provide basic assistance; rather, they were inclined to accept that “the peace deal brought lot of misery upon them.”<sup>452</sup>

As discussed, “home” is a concept that facilitated refugees’ desire to repatriate to their countries of origin. I have assessed different notions of “home” among refugees based on

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returnees from leaving the premises of welfare centres.

<sup>449</sup> Some interviewees in Sithamparapuram welfare centre alleged that the Government of Sri Lanka had forced them to visit the conflict-ridden areas of Trincomalee, though they were reluctant to do so. They had to accept the government decision and enter the LTTE-dominated areas. But upon entering, they realized that their houses were in shambles, and they had no means of earning a living.

<sup>450</sup> According to Chittagong Hill Tracts Commission (2000, 45-46), nearly 1339 repatriated families have not been returned their paddy lands; 942 families have not been returned their paddy land; nearly 774 families have not been returned their gardens. There were 40 villages that were still under the possession of settler population. The initial support given to Jumma refugees was cash of Taka 15,000 and two bundles of CI-sheets. All families were provided rations for nine months, but there seemed to be no provisions for short-term loans, etc., that would help refugees to become self-reliant. It appeared that landless peasants received Taka 3000 for a dairy cow, but people who had prior loans were exempted.

<sup>451</sup> As stated during various interviews, Milonpur and Dighinala in Khagracharri, Chittagong Hill Tracts, August 2002.

<sup>452</sup> As stated by few participants in a school in Dighinala, Khagracharri, August 2002.

their levels of expectations in countries of origin, especially towards the integration of returnees. Since their repatriation to their countries of origin, returnee-refugees in Sri Lanka (Vavuniya and Mannar) and Bangladesh (Khagracharri) were still residing in camps. It was this living in camps in countries of origin that enabled them to construct different notions of “home.” During exile, refugees viewed “homeland” as an extension of “home,” an ideal place to which to belong, which was reinforced in the absence of status in exile, but it was the continued stay in the camps in the countries of origin that helped refugees understanding of “home” seem to evolve. The continued isolation in the camps—in Sri Lanka and less so in Bangladesh—was further accentuated by high levels of restrictions imposed on their intermingling with their own fellow citizens. The Tamils in camps in Sri Lanka were subjected to a certain degree of scrutiny through the “pass system,” which led them to believe that “home” was far away. Therefore, it was these very camps that enabled the process of remaining tied to the politics of homeland, but in the homeland, returnees discovered different views of “home,” which was tied to the idea of resuming old forms of livelihood and engaging in meaning relationships. The continued segregation of returnee-refugees in countries of origin led to different perceptions of “home.”

Moreover, there were differences in the attitudes of returnees residing in the welfare centres Vavuniya and in the open relief camps in Pessalai and in Madhukarai. The dislocated existence in transit camps in Vavuniya, Mannar, and Khagracharri did not endear the notion of “home” to the returnee population. In contrast, refugees residing in relocated houses in Madhukarai were optimistic about “home.” The location of stay of refugees, whether in welfare centres or relocated, determined their perception of “home.”



Despite residing in countries of origin for nearly six to seven years, returnees in camps (welfare, government-managed, open relief, or transitory houses) did not feel that they were “home.” Opinions on “home” seemed mixed among refugee communities. Scholars have argued that most refugees view home as a place to return to; however, based on the typology, I argue that refugees staying in parts of their countries of origin other than their exact place of displacement viewed their stay differently. The return to “home” was intertwined with being able to resume normal day-to-day lives and reclaim their rights as citizens in their countries of origin. Refugees residing in different camps had a varied opinion of what “home” meant to them. The lack of mobility, proper status in countries of origin, and the sometimes low priority accorded to rehabilitation by rebel groups disillusioned returnees.

The government-administered welfare camps failed to provide a permanent place of stay to refugees; rather, their opinions on “home” were negative and the refugees appeared disillusioned. Scholars have differed in their views on why refugees need to repatriate and their need to belong in countries of origin and how it impacts the repatriation process; I argue that while the issue of belonging is an essential criterion among refugees, there are variations among refugees as to what “home” means. Depending on their location of stay, refugee experiences varied, which accounts for the different perspectives on “home.”

### ***Conclusion***

In this chapter, I have discussed in a comparative perspective the conditions of returnees in Bangladesh and Sri Lanka. Both refugee groups were repatriated from India under conditions of being able either to resume old lives or to lead lives with dignity. The

notion of “home” along with problems of status in the country of asylum was a contributing factor to the refugees’ decision to repatriate. Another condition of repatriation was the cessation of violence in the conflict, as was the nature of socio-economic conditions in exile. The scope of inclusion of the returnee-population among Jumma refugees appears higher, as the terms and conditions of the Peace Accord stipulated the mechanisms of inclusion. Conversely, the Tamil returnee-population has a lower propensity of inclusion, especially given the periodic nature of ceasefire. Despite these imbalances, I have argued that Jumma refugees are marginally worse off compared to Tamil refugees because the Tamil ethnic conflict is ongoing, which leaves opportunities to determine both modalities as well as policies of accommodation; this flexibility seems less imminent in the case of Jumma refugees. But this may be the futuristic claims given the instability involve in Tamil ethnic conflict, but in reality both Jumma and Tamil refugees are living in difficult conditions.

The politics of exclusion was tested through careful analysis of state strategies of accommodation on returnees. In both cases, these strategies were inadequate and seemed to have fallen short of demands made by returnees. The cessation of violence, which had seemed to be one of the causes of repatriation, is no longer applicable in either case. Sri Lanka is once again in a conflict situation, although the ceasefire is still in place, which prevents LTTE and Sri Lankan army to go into civil conflict. Also, the Jumma returnees were extremely unhappy with existing conditions in CHT and appear to be looking for an opportunity to re-negotiate with the government. The rhetoric of returnees seems quite distorted and some are keen to return to India. Moreover, the continuation of politics of exclusion in Bangladesh and Sri Lanka exacerbated the problem further. The

accommodation strategies did not reflect the needs of either the minority group or those of the returnees who constituted a sizeable part of the minority groups in both countries. As the governments in Bangladesh and Sri Lanka reneged on their promises to rehabilitate returnee-refugees, the possibility of reconstruction became quite low. Moreover, states' decision to renege on upholding the terms and conditions of the Peace Accord and the CFA indicate that prospect of returnee re-integration is quite low.

To sum up, return is interspersed with the sense of belonging to a place of original habitation. Furthermore, neither refugee group accepted the possibility of residing in welfare camps indefinitely. The variation on "home" and return was more distinctive among the Tamils (as groups were reallocated to different temporary residence), unlike the Chakma. The Chakma/ Jumma refugees seemed worse off because of their less defined status in their country of origin. The Tamil refugees were dispersed in different locations in the hope that they would be able to return to place of original habitation. The opportunities to redress Tamil returnee population seemed higher given the ongoing nature of the ceasefire. In comparison, the Jumma refugees are beginning another round of struggles to address some of the basic points of conflict between the Government of Bangladesh and the problems of representing Jumma people.

## CHAPTER 7

### *Conclusion*

In the dissertation, I have raised two overarching and interrelated questions: first, what factors determine whether or not refugees in South Asia will be repatriated to their countries of origin? Second, why do some repatriated groups re-integrate more successfully than others in “post-peace” South Asian states? In this context, I investigated the rights of two refugee groups in exile in India and analyzed their prospects of re-integration at “home.” I argue that the asylum state views non-citizens’ rights through the lens of state-centric views of citizenship, which tend to privilege the claims of legitimate members, or citizens, as opposed to non-members, such as refugees, migrants, and aliens.

Drawing from the literature on citizenship, I have addressed the claims of non-citizens, especially refugees in exile in the country of asylum. I assert that various factors explain the repatriation process; I examined these issues from the perspectives of the asylum state as well as that of refugees. Furthermore, I assert that the refugees’ need to repatriate was based on an implicit need to belong in exile; however, in the absence of rights and status in exile, they turn to “home” as a place to belong. While discussing factors leading to repatriation, I privilege the perspective of the asylum state in determining refugee repatriation. Based on the globalization literature on citizenship, I also argue that the rights of refugees must be addressed within the domain of citizenship, wherein the state bestows recognition to members, while choosing to leave a large category of non-citizens on the sidelines. The perspective of the globalization literature on citizenship argues in favour of those who can make claims to rights beyond

nationality; that is, denationalized identity and postnational identity of immigrants, refugees, and aliens.

Bearing this theoretical perspective in mind, I contend that the states in South Asia determined belonging based on membership or nationality. The Indian state favoured state-centric views on citizenship rights and determined a particular trajectory of belonging. The state project of these countries entails a rights-based interpretation of belonging within a particular demarcated territory that consciously excluded the non-citizens. These arguments assume renewed significance in relation to refugees in South Asia, as they share a peculiar relation with the host-state population. Contiguous borders and shared ethnicity between states in South Asia has led to much refugee movement across borders, and the Indian state has chosen to adopt a strict policy of non-recognition of refugee rights, which disfavours refugees and makes them susceptible to *official* repatriation. Also, the state-centric views on citizenship in India determined the course of refugee rights. As discussed in Chapter 2, the framework on citizenship/ membership has been broadened to accept other categories, yet it continues to marginalize non-citizens. The refugees and aliens in India are treated alike as they lack political recognition and have fewer rights. It is under these circumstances that the repatriation of Jumma and Tamils occurred in India.

In the event of lack of formal recognition of rights in the country of asylum, refugees were perceived as “guests” and therefore not in need of rights. Most refugees were aware of the possibility of returning “home.” “Home” was to refugees what the asylum-state failed to provide: a place of recognition and a site of dignity and status. Refugees established clear linkages between the desire to stay/ return and the lack of status in the

country of asylum. The Tamil refugees' experiences prior to the 1991 assassination of Rajiv Gandhi were different compared to those seeking asylum in the mid-nineties. "Home" was a site to rally around among refugees during exile, especially for the conflict-induced refugees like the Tamils and the Jummas. Moreover, spatial segregation of refugees in camps in the asylum state also contributed to the myth of "home" as an ideal place to belong to, as camps were located mostly outside the boundaries of cities. The campsite was a place to rally around the issue pertaining to "home" and homeland. In the absence of recognition in the country of asylum, "home" became a place to return to.

The repatriation of refugees in South Asia depends on certain factors: first, at the level of the asylum state and how the prolonged presence of refugees had an impact upon their treatment and management. Second, the inter-state relations between the two countries (of origin and of asylum) had an impact upon the decisions of repatriation of refugee groups, especially given the peace process. However, from the vantage point of refugees, repatriation occurred based on their lack of status in exile, which in turn depended upon state-centric views on membership issues, which seek to marginalize non-citizens. The countries of origin, on the other hand, chose to accept returnees as a result of "good" inter-state relations and of the cessation of ongoing conflict that originally generated the refugee flow.

In addition, inter-state relations between countries of origin and asylum determined patterns of repatriation in South Asia: India has often facilitated repatriation during periods of good relations between neighbours. The Indian Peace Keeping Forces (IPKF) were dispatched in Sri Lanka to broker peace with the Tamil rebels and subsequently to encourage Tamil refugees to go back to their place of origin. As a result, a large number

of Tamil refugees accompanied the IPKF as a sign of good faith and as a confidence-building measure between India and Sri Lanka. Based on the narratives of returnees in India (Tamil Nadu) and in Sri Lanka (Vavuniya and Mannar), returnees traveled back and forth between India and Sri Lanka a number of times. The Office of the UNHCR has accepted responsibility for questionable decisions to repatriate refugees at the first sign of normalcy and has prevented official repatriation since 2002.

The repatriation process that resulted from talks held between countries of origin and of asylum often suppressed the voices of refugees. However, the Jumma refugees were an exception: the Jumma Refugee Welfare Association was able to negotiate with the governments of India and Bangladesh to “verify” sustainable changes in CHT to facilitate their repatriation to the Chittagong Hill Tracts, in Bangladesh. But, in other instances, refugees have been sent back based on negotiations between countries of origin and asylum. The role of international humanitarian agencies in India has been minimal.

In relation to the second research question, I examined the returnee-refugees’ re-integration in Sri Lanka and Bangladesh in a post-peace context. Here, the opinions varied among the returnee populations: the Chakma/ Jumma returnees of Dighinala experienced a different rehabilitation than did the Tamil returnees in Vavuniya and Mannar. The Tamil returnees maintained a degree of optimism to be able to return to a place of displacement or “home” (due to the continuation of ceasefire), which seemed less obvious among the Chakma returnees. Hence, there were distinct points of difference in the manner in which reintegration occurred among returnee populations in their respective countries of origin, especially in relation to whether they would be able to return to the place of displacement and resume normal lives. These differences further

explain the prospects of re-integration of returnees in Bangladesh and Sri Lanka. The variation in re-integration of the two refugee groups was dependent on factors such as strategies of accommodation (the nature of settlement packages received by refugee groups in Sri Lanka and Bangladesh); the stability of the ongoing peace process (whether it be a ceasefire agreement or the continuation of the Peace Accord); whether refugees' perception of "home" coincided with the level of expectation at the time of repatriation; and the home-states' promises to provide better living conditions, such as more freedom of mobility, re-instatement of land and homestead, and finally financial assistance and ration distribution. In addition, the exclusionary policies in the countries of origin and the re-assertion of policies of marginalization were responsible for accentuating the problem of integration of returnees at "home."

The home-states' decisions to renege on promises of the Peace Accord or the CFA further lessen the scope of re-integration in countries of origin. Also, the majoritarian states in Sri Lanka and Bangladesh have failed to accept returnees completely, which has created a refugee-like existence for the returnees in their countries of origin. The state has granted limited rights depending on proper documents authenticated by officials in countries of origin. The citizenship laws in Bangladesh and Sri Lanka did not politically disenfranchise the minorities, but they indirectly paved the way for policies of marginalization and alienation during pre-refugee situations and later in the post-repatriation context.

On the surface, the Jumma refugees should have been better off as a result of their involvement in the Peace Accord and their being able to determine the terms and conditions of repatriation from Tripura. But some of these terms merely laid the bases of



formal acceptance of Jumma identity within the Bangladesh polity, such as de-militarization of Chittagong Hill Tracts and land rights therein. In contrast, the Tamils were repatriated on the basis of the fluid nature of the peace process, which promised to address the issue of minority representation through devolution packages, especially in the north-eastern part of Sri Lanka. Despite these differences between the Accord and the ceasefire talks, I claim the Jumma were relatively less integrated than the Tamils. In the post-peace context, the state of Bangladesh in principle acceded nominally to uphold a few conditions, such as constituting the Ministry of CHT Affairs to manage CHT related matters, but it failed to accept the fundamental conditions such as the de-militarization of CHT region, which would make the Jumma people more secure (as armed forces were implicated in leading massacres and violence against the Jumma people) or to provide land rights to every Jumma returnee. Also, the Jumma returnees were worse off as a result of their lesser bargaining conditions with the state as the Peace Accord precluded them from further negotiation with the Government of Bangladesh since the signing of the Accord in 1997. Conversely, the Tamils have faced a relatively better position since 2002, as the opportunities of international scrutiny were high and the government was much more involved in facilitating the re-integration process. The continuation of the peace process was a definite condition to facilitate the post repatriation integration.

The reconstruction of both Jumma and Tamils necessitates a discussion on how these concerns were addressed by the states and whether the majoritarian discourse paved the way to more pluralistic policies that promised to provide adequate representation and a voice to the marginalized groups in Sri Lanka and Bangladesh. The Sri Lankan state has undergone various rounds of accommodations as part of the devolution package, but it

has failed to address specifically the concerns of Tamil returnees from India, and the Tamil rebel group has not seemed much concerned with their plight in the post-repatriation context. The Jumma refugees are engaged in a similar struggle, without the territorial component of the separatist movement. The Jumma refugees had a few limited demands such as the complete withdrawal of the military from the CHT region and the restoration of land and homesteads to paharis, who claim to be the rightful owners. Presently, another militant faction of the PCJSS, the Priti faction, is engaged in a very low level of hit-and-run conflict with the military, which threatens to de-stabilize the Peace Accord.

In relation to “home,” refugee groups in countries of origin viewed it differently. The Tamil refugees were quite happy to return to their place of dislocation, although a long period of stay in welfare camps or open relief camps in Mannar and Vavuniya made “home” less desirable. The location of refugee groups in welfare camps, transit camps, or in various resettled locations within Sri Lanka caused the group to interpret “home” quite differently. The nature of a permanent stay indirectly affected ideas of “home.” Also, refugees’ idea of “home” was less tangible in comparison to that of the Tamil Rebels, which was based on the concept of a separate statehood for the Tamil population. In comparison, refugees were happy to return to the place of displacement and reclaim old ties. The Jumma refugees repatriated from India were also far from rehabilitated in the place of displacement and continued to reside in make-shift camp-like locations in Khagracharri district, CHT.

The prospect of integration depends on the location of stay of returnee-refugees in their countries of origin. The location of stay of refugees in Sri Lanka influenced the

refugee perception of “home” and whether they would be able to re-integrate well. The Tamil refugees had better provisions to take care of their interests due to the presence of international aid agencies that monitored the welfare of refugees housed in various government-organized welfare centres and provided security to the returnee population. Also, refugees residing in these locations were able to access some of these resources better than those residing in non-governmental camps, such as make-shift camps, without access to state resources. In contrast, the Bangladesh government provided rations and aid packages on an irregular basis as refugees continued to reside in make-shift camps located in abandoned schools.

The cessation of violence and killing in Sri Lanka and Bangladesh motivated “voluntary repatriation,” but the conditions of refugee-creation still permeated the political fabric in both Sri Lanka and Bangladesh. The persistence of socio-economic inequalities in Sri Lanka and Bangladesh has prevented the reconstruction of returnee-refugees, such as representation and maintaining equilibrium between the majority and minority communities in Bangladesh and Sri Lanka. The lack of proper channels to address formally some of the underlying issues of the under-representation of minorities in Bangladesh was responsible for the failure to rehabilitate the Jumma people in the CHT region. However, the creation of the Land Commission was the first step to address the problem of land re-distribution among Chakma, but as my respondents indicated, the operationalization of this scheme has encountered various problems. The Tamils, on the other hand, have had the devolution packages in through Provincial Councils that partially addressed the question of minority representation.

In this context, the role of external agencies has been an important one, as it facilitates refugee protection and assistance. Also, in terms of political learning since 2002, there has been no major *official* repatriation from India. Since 2002, the donor-led reconstruction of returnee families in Sri Lanka has had an impact. The donor country tends to play a role in facilitating peaceful conditions, which encourages the prospects of re-integration of returnees in countries of origin. However, the ceasefire in Sri Lanka has been threatened by both Sri Lankan armed forces and the Tamil rebels, especially with the government attempting to challenge LTTE through careful encouragement of another faction, the Karuna faction. Under these circumstances, donor countries are rather discouraged to invest in the future of Sri Lanka. There have been allegations that the nature of assistance has been erratic depending on the place of stay of refugees: refugees residing in government-held territory were directly under the purview of the UNHCR, but refugees residing in rebel-held areas had a limited supply of resources and were often subjected to arbitrariness of LTTE officials. Also, a few non-governmental religious-based organisations have been able to provide basic assistance to refugees residing in these territories. In addition to the basic day-to-day food supply, the refugees still live in camps constructed by the Government of Sri Lanka, and often their fate appears to be undetermined as they are unable to find meaningful employment. The donor involvement in CHT has been erratic due to the nature of the conflict and given the present strategies adopted by the rebel groups, it appeared unlikely that they have had any impact.

### ***Challenges Ahead and Policy Recommendations***

I have explored the prospect of refugee rights in exile to determine the need to evolve the broad-based rights of refugees in country of asylum. The states in South Asia need a proper refugee policy to determine refugees' status and rights. India determines refugee rights based on some of the basic constitutional rights enshrined in the Constitution of India, but it does not provide *official status* to non-citizens. South Asia does not have any overt policies toward refugees, whose status is based upon the internal law of each state. In India, refugees seeking asylum are left to the state bureaucracies to determine basic human rights. In addition, countries in South Asia are non-signatories to the Conventions Related to Determining Status of Refugees, a fact that effectively leaves the non-citizen category unprotected in relation to assistance and privileges entitled under the international refugee regime.

This dissertation does not claim to provide any *durable* answers to the refugee problem. Rather, I suggest that refugees within South Asia can make claims to informal status, and it is in the interest of the asylum state to accord these rights. Since refugees in South Asia are mostly conflict-induced, their permanent solutions need to be derived from within each state. Refugees tend to be repatriated as a result of good inter-state relations, as well as concerns on security and demographics. However, a successful repatriation must be resolved well within the paradigm of statehood. It is in the interest of the asylum state to accord informal recognition to refugees to prevent the possibility of twice repatriated refugees returning to the countries of asylum. Repatriation resulting from a brief period of normalcy/ ceasefire/ cessation of violence has witnessed a large number of so-called recyclers. Based on interviews in countries of origin, returnee

families living the life of refugees at “home” preferred to go back to India. The key to successful repatriation depends on the successful resolution of the conflict that led to the original refugee-generation. Therefore, in order to resolve the process of refugee repatriation successfully, states need to ascertain the process of re-integration, and refugees generated as a result of conflict need to return to a state that has resolved the conflict in order that they may be re-instated as citizens of these states.

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## **APPENDIX A: List of Questions**

1. What is your understanding of the circumstances in countries of origin leading to the generation of refugees?
2. What led you to seek refuge in this country?
3. How would you describe the social, political, and economic situation in these shelters, i.e., how would you describe your stay in camps in India?
4. What do you plan to do from here on?
5. What factors motivated you to return to your country of origin?
6. Can you explain how repatriation began in the country of asylum?
7. Who are the prominent actors involved in the process? I.e., organisations, associations, leaders, local people.
8. How would you describe the attitude of leaders or governments towards refugees in this country, as well as the country of origin?
9. What has been the nature of involvement of international agencies or any humanitarian organisations in the repatriation process?
10. What made you really decide to return to your country of origin?
11. Did officials inform you of changes in your country of origin?
12. What is the role of country of origin in facilitating the agreements?
13. How would you describe your experience in the country of asylum and of origin?
14. What has been the level of response from your country of origin in facilitating the terms and agreements of repatriation?
15. How would you characterize your life style or socio-economic conditions prior to repatriation? and post-repatriation?
16. What do think about the re-settlement packages in your country of origin?
17. How do you explain the present political conditions in your country of origin, especially in relation to rehabilitation?
18. What is the role of other associations or agencies in implementing various demands of returnee groups?