CHAPTER-I
INTRODUCTION

The refugee problem is one of the most agonising tragedies of our age. It is the product not only of the most destructive wars of history, World War I, and World War II, of modern dictatoral regimes and of the national awakening of people, but also of the closed frontier characteristic of the twentieth century. It is an age old problem and there were refugees in earlier centuries, but no refugee problem in modern sense. In recent times, the refugee problem has been distinguished from refugee movements of early days by its scope, variety of causes, complexity and intractability.

Modern refugee movements, beginning in Europe and subsequently becoming worldwide, have given rise to a new class of people who are homeless and stateless, and who live in a conditions of threat to life, abject poverty and deprivation which erodes human dignity. They have caused grave political, social and economic problems for the countries of temporary reception problems which have proved too burdensome for the administrative facilities and financial resources of private organisations and national governments.

Furthermore, while in its earlier stages the refugee problem was seen as a temporary and limited phenomenon, it has now come to be acknowledged as universal, continuing and recurring. In response to this challenge the international community has developed a mechanism of worldwide cooperation involving a tripartite partnership of national governments, private agencies and international organisations. No longer confined by strict definitions of the “refugee”, it has been prepared with a view to approach the problem in all its aspects – political, social, economic and humanitarian.

There is no single definition of “refugee” that is applicable for all purposes. When associated with humanitarian aims, the connotation of the term differs from
the one used in international agreements, since the human aspects of the refugee problem are distinct from the question of a refugee’s status in any given situation. However, all refugees have in common these characteristics: they are uprooted, they are homeless and they lack national protection and status.

The refugee is an involuntary migrant, a victim of politics, war or natural catastrophe. Every refugee is naturally a migrant but not every migrant is a refugee. A migrant is one who leaves his residence (usually for economic reasons) in order to settle elsewhere, either in his own or in another country. A refugee exodus results when the tensions leading to migration are so acute that what at first seemed to be a voluntary movement becomes virtually compulsive. The uprooted become either internal refugee (person who have been displaced in their own country), or “international refugees” (person outside their country of origin).

The 1951 United Nations Refugee Convention was the culmination of an important historical development in the definition of basic minimum legal standards for the treatment of refugees on the international plane. It has been gradually accepted “that the refugee has a special status that sets him apart from the ordinary alien because he is without any country’s diplomatic protection”.

In the common sentence we can say that a refugee is a person taking refuge, especially in a foreign country, from war, persecution or natural disaster. Or Refugees are the people who are uprooted from the land of their own and forced to run away to a different place for the safety of their life. In Swahili language¹, the word for refugee is mikimbizi, which literally means “a person who runs” – in other words, someone who runs under compulsion, away from his homeland in fear for his survival. The fundamental justification for this forcible eviction and population movement may vary from country to country, but, it is generally because of the multi-religious and pluralistic cultures prevailing in almost all the third world countries.
Refugees in South Asia

South Asia has witnessed massive population movements across the national boundaries of India, Pakistan, Bangladesh, Sri Lanka and Nepal since 1947. South Asia is a major third world region of concern in the context of refugee movements. What is most troubling to governments in South Asia is the unwanted ethnic mix that migration brings into communities anxiously seeking to assert their own identity.

Since 1947 population movements across boundaries in South Asia have consisted largely of rejected peoples, unwanted migrants, or refugees. By rejected peoples this work means citizens or legal residents of a country forced to leave as a result of persecution, violence or threats to their lives or property and whose departure is sought by their governments or by those among whom they live, by unwanted migrants we mean the people crossing an international boundary, legally or illegally, who are unwelcome and are often asked or forced to leave. By Refugee we mean a person taking shelter, especially in a foreign country, from war or persecution or natural disasters. It is this feature of population movements in South Asia that has generated the most conflicts both within and among the countries of the region.

Approximately 40 to 50 million people have moved across national boundaries in India, Pakistan, Bangladesh, Sri Lanka and Nepal since 1947, some as economic migrants, more as refugees. South Asia is a refugee prone area but none of the South Asian countries are signatories to the 1951 UN Convention on Refugees. Nor have any of them ratified the 1967 protocol. South Asian countries have also not enacted any separate refugee legislations either collectively or individually. As a result, the problem of dealing with refugees is usually dealt with on an ad-hoc basis.

In South Asia, there are four broad categories of refugee generating factors. They are identified as:
Breakdown of colonial rule and the nationalization of some of the communal legacies have created refugee flows, the largest of which was between India and Pakistan, during 1947 as a result of the Partition of British India, which gave birth to two new states, based on religion. Not only did Muslims from India migrate to Pakistan but also Hindus residing in Pakistan were forced to migrate to a truncated India. According to some estimates, nearly 20 million people were forced to migrate due to the partition. The problems of their resettlement and rehabilitation were enormous but were settled by India and Pakistan through bilateral agreements and internal administrative mechanisms. De-colonisation generated a flow of refugees from Burma and Ceylon (now Sri Lanka) as well, due to the policies of nationalisation of government and public sector companies which left many persons of Indian origin unemployed.

The second category is related to nation building which precipitated not only political ethnic or religious conflicts but created catastrophic economic or environmental conditions that forced people to migrate within and also outside their respective countries. The first and the largest refugee flow generated by the factors under this category was in 1971, from East Pakistan to India. Some 10 million refugees from East Pakistan fled to India, while most of them returned only after Bangladesh had emerged as an independent nation. As a consequence another category of refugees was created, that of stranded Pakistanis, who had refused to support the struggle for Bangladesh. Even after the victory, the struggle of this group continued as they tried to voice their support for Pakistan.

An important aspect of state and nation building processes has been the changing nature of the state in South Asia and its continuous precipitation in these ethnic, religious and sectarian conflicts. In the beginning all the South Asian nations started with liberal, democratic and secular ideals, but gradually, they have drifted into acquiring the identities of their respective dominant and governing social groups.
This process of, and culmination in, the emergence of a dominant undemocratic state, has inflicted discrimination, deprivation, and marginalisation on ethnic, minority, and religious groups. The dominant community or social group in control of the state has used undemocratic political structures and the state’s coercive apparatus to appropriate a disproportionate share of the state’s resources for itself by denying the same to their minorities and out-groups. This has precipitated ethnic and other conflicts and generated refugees. This distorted state building process has been enforced, and in turn contributed to the challenges faced by the nations through under and unequal development.

In a way the crisis of Bangladesh and Pakistan, and the Tamil problem in Sri Lanka, was a result of the enforcement of a majority national identity on the minorities. Similarly in Bhutan, the monarchy dominated by Buddhists has denied the Southern Bhutanese, who are of Nepalese origin, their due share in economic and political decision making process in the kingdom. 4 Ethnic conflict takes on political undertones as the Southern Bhutanese also fight for democracy and human rights.

Practically the only South Asian states that have not generated major refugee flows to their neighbouring countries as a result of ethnic conflicts are India and Nepal. In the case of India, its democratic polity, secular state following federal constitutional structures, notwithstanding their limitations and imperfect practices, have given it a considerable resilience to deal with ethnic conflicts internally. These conflicts may not have been fully resolved, but the capacities of the state system and the large size and diversity of India have been able to moderate and keep such problems localised. The recent years have however witnessed signs of serious erosion in India’s democratic polity and in its secular features that is clearly evident in the rise of ethnic conflicts, communal tensions and caste violence.
• The South Asian states’ incapacity to deal with the *Challenge of Economic Development* has been a part of this distorted evolution. This incapacity has generated economic and environmental migration in the region. Bangladesh is identified as one of the largest and continuous sources for economic and environmental migration. It is also identified as one of the largest and continuous sources of economic migrants, going mostly to India, but also spilling over to Nepal.

Economic migrants have also frequently crossed the India-Nepal border in large numbers from both the sides. The border is contiguous and long, allowing free movement of nationals of one country to another under the provision for the Treaty of Peace and Friendship 1950.

• The last category of refugee generating factors relates to *Developments Outside the Region*, and the flow of extra-regional refugees. So far, refugees come from Tibet, Afghanistan and Burma. If we look at the factors generating refugees in South Asia in a comparative context, we find that formation and restructuring of state boundaries (partition of British India) as also the explosion of internal ethnic and secessionist wars where massive military operations are affecting the lives of local people (emergence of Bangladesh, struggle for a Tamil Eelam in Sri Lanka and Soviet intervention and the Taliban in Afghanistan) created a mass exodus of refugees in the shortest possible span of time. As against this, economic and environmental migration is generally a slow process spread over a large time, though the total number of people involved may not be small.

In South Asia, two factors facilitating the movement of refugees are: the easy *accessibility of the borders* and the *socio-cultural similarities* with the host populations. If the host nation and its government support these refugees, as was evident with Bangladeshi and the Afghani refugees, then the refugees spread out in the host country fast and deep. Repatriation of refugees has diverse and complex aspects, but what seems borne home out of the South Asian experience is
that the sooner the cause of refugee creation is removed, the faster and easier is their repatriation. The host country’s choice to help in removing the cause of refugee influx also helps in their early repatriation, and sometimes, international agencies like the United Nations High Commission for Refugees (UNHCR) and the Non Government Organisations (NGOs) dealing with the refugees may help instill a sense of confidence and security among the returning refugees, to facilitate their repatriation.

**SRI LANKAN REFUGEES IN INDIA**

India has always enjoyed a relationship with Sri Lanka. The socio-economic and cultural contacts between India and Sri Lanka have been cordial. Tamil Nadu, one of the Southern States of India, has several similarities and commonalities, particularly in matters of language, literature, religion and philosophy, with those of Sri Lanka. Thus after the Colombo riots in 1983, most of the Sri Lankan Tamil Refugees took shelter in the state of Tamil Nadu in South India. The narrow and shallow Palk Straits today constitutes the maritime boundary, however, in matter of fact, the Palk Straits was historically a bridge through which people, religion, ideas, and commodities flowed freely from one area to the other. It is extremely difficult to cut this umbilical cord even today.

Sri Lankan Tamil Refugees came to Tamil Nadu in four phases. First phase covering the period (1983-87) was more dynamic in the sense that it registered a large scale exodus of refugees of whom about half came to India. The Second Phase (1989-91), coinciding with the Eelam War II, recorded relatively less refugee outflow. The third phase of the exodus started in April 1995 as a result of the continuing Eelam War III, the battle between the Sri Lankan Army and the Liberation Tigers of Tamil Eelam (LTTE). The fourth phase of refugee influx which began in January 2006 and continued till 2008 July was also caused by the same kind of warring, between the Sri Lankan Army and the LTTE.
The 1951 Convention and its 1967 Protocol, the Principal International instrument such as the Convention for the Protection of Refugees, had been ratified by over 141 countries in the world. But India has not ratified the Convention. It does not have specified domestic laws on refugees either. In India, refugees are dealt with under the “Foreigners Act” and the “Passport Act” which do not recognise the humanitarian plight of refugees. In the absence of laws and procedures it is not clear, as to what kind of resident permits can be issued to the Sri Lankan refugees, whether refugees can work on Indian territory or not, etc.

The basic principle underlying New Delhi’s refugee policy is to view the problem strictly in a bilateral perspective. The refugees should return to their homeland once the situation there has improved. India’s policy on the subject was governed by three factors:

(1) India’s desire to maintain friendly relations with Sri Lanka;
(2) Protection of the security and territorial integrity of India;
(3) India’s deep sympathy for the people of Sri Lanka.

**SRI LANKAN REFUGEE CAMPS IN TAMIL NADU**

The flow of Sri Lankan Tamil refugees into Tamil Nadu is closely intertwined with the violence unleashed in Sri Lanka, against the Tamil civilians. There were refugee camps in Tamil Nadu and a special camp in Orissa. In March 1990 Tamil Nadu Refused Asylum to 4,638 Sri Lankan Refugees because Indian Peace keeping forces brought the Indian Army into conflict with the Tamil Tigers, After that they were sent to Malkangiri in Orissa state.

The Sri Lankan Tamils in Tamil Nadu can be broadly divided into Three categories:

1. Refugees in the camps
2. Recognized refugees outside the camps
3. Tamil Militants detained in special camps
It is essential to have a clear idea about the differences among the Three categories and also their different legal status. Unfortunately the government, political leaders, and the NGOs use the term “refugee” very loosely and interchangeably. This has created not only semantic confusion, but also administrative and legal bottlenecks.

**Recent Developments After the Defeat of L.T.T.E. in Sri Lanka**

Tamil Nadu Chief Minister Mr. M. Karunanidhi assured that the Sri Lankan Tamil refugees living in and outside the camps would be granted Indian citizenship soon. Spiritual leader Sri Sri Ravi Shankar has backed Tamil Nadu Chief Minister M. Karunanidhi’s call to give Indian citizenship to Sri Lankan Tamil Refugees in India.7

**OBJECTIVE AND SCOPE OF THE STUDY**

The refugee problem today is major issue in international affairs. It is intimately linked to the intricacies of world peace and security too. Refugees now make a substantial impact on world politics and domestic affairs in many countries.

The plight of refugees in almost all parts of the world, and especially in South Asia is an increasingly frequent subject of discussion in the national and international arena. The issue of human rights is inextricably linked to the question of human displacement, so that it is impossible to examine one without referring to the other, when refugees abandon their own home, community and country, because they are frightened of being murdered, tortured, imprisoned, enslaved, robbed or starved.

Most of the South Asian countries had been receiving, as well as generating refugees. The scale of the refugee flow and its effect on international relations encourages the taking up of refugee issues as a subject for research. The refugees also constitute a threat to the host state. This assessment of threat is
based on three considerations, first is social security because refugees often become involved in drug trafficking, proliferation of small arms, and participate in anti-social activities. Secondly, economic security can come under threat because refugees constitute an economic responsibility for the host state. It is directly linked with three factors: size of the refugee population, the ability of the host state to provide food and shelter, and the level of international economic aid. Thirdly, refugees present as a political security, based on three factors: The level of involvement of the host state in the conflict; the integration of the refugees in the local population; and the political utilisation of the refugee population by the local political parties and their interest groups.

The presence of refugees in a host country almost always creates conflict, tension and insecurity within the state. But most refugee studies have focused on humanitarian concerns and the problems faced by particular groups or individuals within the host state. Writers such as Tapan Kumar Bose, Rita Manchanda, V. Suryanarayan and T.N. Giri have placed a primary emphasis on the role of the UNHCR and the international community. What is lacking in these studies is the lack of emphasis on the social, political and economic challenges created by refugees in the host state.

The scope of the proposed study would consist of understanding the social, political, cultural and economic circumstances that underlie the refugee problem in South Asia. The study will also try to explore the linkages between Sri Lankan refugees and the challenges being faced by the host state, Tamil Nadu.

**HYPOTHESIS**

The political problem between two Sri Lankan communities, the Sinhalese and the Tamils in Sri Lanka, caused the exodus of thousands of Sri Lankan Tamils to India. Now these Sri Lankan refugees pose economic, political, and social challenges for the host state of Tamil Nadu and the Government of India.


RESEARCH METHODOLOGY

As this study is unique in its approach, an attempt has been made to conduct research on those particular challenges which are created, by Sri Lankan Refugees, in Tamil Nadu.

Keeping the nature of subject in view, this study will need to be both descriptive and analytical in nature. It is to be a scientific study, a study that would depend on both primary and secondary sources. Apart from the numerous literary books, electronic journals, newspaper reports, governmental journals etc. which can be put into the category of secondary sources, this study would largely rely on field study, questionnaires, and official reports on Sri Lankan refugees from the Department of Rehabilitation in Tamil Nadu. Some interviews would also be conducted to know the ground level views of the Local People of Tamil Nadu, and the Protection Scheme of the Indian government. The study is mainly an examination of Refugees inflows in South Asia: the Challenges created by the Sri Lankan Refugees for the host state: and the role of the host state and various agencies in rehabilitation and repatriation. The final conclusion drawn will be arrived at from a study of the collected data and official reports.

REVIEW OF LITERATURE

There are a few books already published on the refugee problem in South Asia and on the challenges of the Sri Lankan refugees in Tamil Nadu, which are worthy of discussion.

Refugee Problems in Asia and Africa : Role of The Unher written by T.N. Giri (Published by Manak Publications, 2003)

This book examines the socio-political and economic causes of the refugee problems in the third world. It examines the fact that the refugee problem is a major concern of international society today. Their problems have a clear bearing
on international peace and security. This book is principally about the U.N.H.C.R. and its contribution to the providing of relief to millions of refugees over decades. The UNHCR was originally created to take care of the 1.2 million refugees after the Second World War, most of who originated from, and were found in, various European countries. Soon the concerns of the European refugees were replaced by those of the teeming millions of refugees from the developing world. Giri says that refugees have become a global problem in terms of making the U.N.H.C.R. a global institution. The book provides data related to refugees, including data to prove that nearly 80 percent of the refugees belong to Asia, Africa, and Latin America, collectively identified as the third world. The book also looks into the social and economic problems of host countries, the unwelcome consequences for international peace and security in the affected areas – particularly in the neighbourhood, and the growing deficit in resources made available at the international level to cater to both the short-term and long-term needs of the refugees.


This book presents a link between the past and the present. It provides an evolving analysis of the “refugee” as an outsider or alien arriving in another society to seek sanctuary. It focuses on the colonial period showing how the colonial administrative machinery enacted legislations and put in place legal jurisdictions for exercising an effective hold over the ruled territory and subject populations by controlling the entry and exit of foreigners. This book shows how the administrative and legal provisions during the colonial period were part of the state formation process which has had enduring influences in the statutes of past colonial states in South Asia.
Refugees and Regional Security in South Asia, edited by S.D. Muni and Lok Raj Barel (Published by Konark Publishers, 1996)

This book discusses the fact that the regional security in South Asia remains dominated by the 50-year cold war between India and Pakistan. The birth pangs of both countries, carved out of one nation, generated massive population movements as did the subsequent emergence of Bangladesh. In addition, Sri Lanka is locked in a war of secession and Pakistan is backing the Islamic Taliban regime in Afghanistan’s 20 year conflict, where three million people have fled their homes. This book also shows how this massive refugee creation and accommodation has seriously affected the security and, stability of both the refugee generating as well as receiving states. It is one of the first studies examining how refugee flows have vitiated security environment in South Asia at the National, bilateral, and regional levels.

Tigers of Sri Lanka: From Boys to Guerrillas written by M.R. Narayan Swamy (Published by Konark Publishers, 1995)

This book is based on more than 100 interviews spread over three years in New Delhi, Chennai (then Madras), Madurai, Mal Kangiri (Orissa), Colombo and London. The book brings out the History of Tamil Militancy and it is a modest attempt to chronicle the staggered growth of militancy from fits and starts in 1970s until 1983 when it became full fledged, and the brief but disastrous experiment in government formation in the island’s northwest after the Indo-Sri Lankan accord of July 1989. This book is an account of how the Tamil Militant Campaign for a homeland called Eelam has gone awry after many spectacular victories scored in the battle against the Sri Lankan Forces.

This book also details the Sri Lankan Tamils Military initiation under the Palestinians; even before the 1983 pogrom forced the guerrillas to take to the gun in a big way: and India’s massive role in providing training to the militants. The book also laid bare all the maneuvers and manipulations behind the formation of a
Tamil government in Sri Lanka’s Northeast which collapsed even as Indian troops dispatched for Peace-keeping ended up fighting the liberation tigers of Tamil Eelam. This book is a dispassionate study of the genesis and spread of Tamil militancy in Sri Lanka and its implications on India.

**Between Fear and Hope, Sri Lankan Refugees in Tamil Nadu by V. Suryanarayan & V. Sudersan (Published by T.R. Publication, 2000)**

This book contains a series of inter-related chapters about the global refugee phenomenon and the Indian experience with refugees. The book also examines the causes and consequences of the Sri Lankan Tamil refugee presence in India. This book analyses the communal holocaust of July 1983 and intensification of ethnic conflict that have resulted in large scale internal displacement of people and movement of refugees from Sri Lanka to different parts of the world.

The book also provides support for the necessity of the enactment of a refugee law which reflects humanitarian concerns about the refugee as well as the security interest of the Indian state.

**Ethnicity Versus Nationalism – The Devolution Discourse in Sri Lanka by Partha S. Ghosh (Published by Sage Publication, 2004)**

This particular book concentrates on how to bring about reconciliation and stability in ethnically divided Sri Lanka. In Sri Lanka, an intense debate is taking place as to how to bring about peace and reconciliation in the fractured polity. This book takes an overview of Sri Lankan Tamil Politics since the advent of independence and shows how this clearly reveals that the Tamils have been mainly “reactive” to Sinhala politics. Since their hopes and aspirations were never fulfilled by Sinhalese dominated governments, frustrations became intense; demands became more radical; finally culminating in the demand for a separate


It discusses the situation of refugee law and policy in India and the SAARC Anti Terrorism Protocol of 2004 which ensures that suspected “Terrorists” are not treated as refugees. The Article also suggests that as a refugee prone area, South Asia requires India to take the lead to devise a policy consistent with the region’s needs and the capacity to absorb refugees under conditions of global equity.


In this article, Partha S. Ghosh attempts to study the constitutional crisis in Sri Lanka from political perspectives and tries to pinpoint and examine the reasons behind the formation and rise of the L.T.T.E. and its much stronger position in the demand of the separate state of Ealam. The article also argues that it is the tragedy of Sri Lanka that its Sinhala majority can never agree on a common platform to deal with Tamil issues, and states that the L.T.T.E. is still miles away from joining the democratic process or giving up on the fight for Ealam.

The Article by Myron Weiner, “Rejected Peoples and Unwanted Migrants in South Asia”, Published in Economic and Political Weekly, Aug. 21, 1993

It analyses the massive population movements that South Asia has witnessed, especially across the national boundaries of India, Pakistan, Bangladesh, Sri Lanka and Nepal ever since the end of colonial rule in the area around 1947. This article identifies the various types of population movements across boundaries, the internal social and political responses these flows elicit, the impact of these
flows on relations between the states and the ways in which the states have sought to deter unwanted flows when they were unable to control their borders.

The Article by V. Suryanarayan, “Sea Tigers – Threat to Indian Security”, Published in The Hindu, July 28, 2004

It analyses the origin and growth of the naval wing of the LTTE. During the formative years, Tamil Nadu was the sanctuary and backyard of the Eelam struggle. There was a close nexus among fisherman, smugglers and Tamil militants. The Article also identifies the fact that Sea Tigers and Tamil Militants were becoming a threat to Indian citizens and prominent Indian public figures, which became a matter of central concern within the Government.

The Article by Kathleen Newland, “Ethnic Conflict and Refugees”, Published in Survival, Vol. 35, No. 1, Spring, 1993

It examines the fact that there are millions of people in the world today who have been driven from their homes because they belong to a particular ethnic group. The article proceeds in five sections. The first clarifies some terms and discusses ways of understanding refugees and ethnicity, as well as the connection between the two. The second examines the impact of ethnic conflict on refugee movements. The third section looks at the recent growth of refugee populations generated by ethnic conflict and assesses the prospects for the immediate future. Section four reviews the international mechanism for responding to ethnic conflict. The final section evaluates some recommendations for international actions to address these problems.

In this study, an attempt has been made to explore the linkage between Sri Lankan refugees and Tamil Nadu with the special emphasis of India’s role in solving the Sri Lankan refugee problem.
CHAPTERISATION

The study will follow the following scheme of chapterisation:

1. **Introduction**

   Chapter First is the Introduction which gives the brief account of the study. It also deals with sources for the study.

2. **Refugee Movements in South Asia**

   The Second chapter grapples with the socio-political and economic causes that explain the refugee phenomenon in South Asia. This chapter also deals with implications of refugee inflows in South Asian nations.

3. **Roots of Tamil Migration from Sri Lanka**

   The Third chapter traces the historical causes behind the migration of Sri Lankan refugees into India. This chapter covers the entire historical background of ethnic conflict in the country which had also developed into civil war and military intervention.

4. **The Problem of Tamil Refugees in India**

   The Fourth chapter is devoted to discussion on the status of Sri Lankan refugees in India. It discusses the structural aspect of refugee law in India, because India is not a signatory member of the 1951 Convention on the status of refugees.

5. **India’s Policy Towards Tamil Refugees**

   The Fifth chapter will deal with the role of the Indian government in providing protection to Sri Lankan refugees. It also attempts to examine particular programmes and policies implemented by the Tamil Nadu government for the Sri Lankan refugees and the role of Non-Governmental Organisations in Refugee Management.
6. **Perceptions of Tamil Refugees in India**

   The Sixth chapter deals with socio, economic and political challenges created within Tamil Nadu by the presence of Sri Lankan refugees. Because of the existence of large numbers of Sri Lankan Tamils in Tamil Nadu, there have naturally been problems created for India which had to house, feed, care for them and provide security.

7. **Conclusion**

   The conclusion summarises the extract of the entire study with a summing up of the findings.
REFERENCES


3. Ibid.


