UNHRC’S FAILURE IN PROTECTING OF HUMAN RIGHTS OF SRI LANKAN REFUGEES IN INDIA

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ABSTRACT

Today, three areas of modern international law attempt to provide protection to victims of war i.e. human rights law, refugee law and humanitarian law. This research paper strongly focuses on the UNHRC’s failure in providing aid to provide sufficient hygienic living condition to the Tamil refugees living in India during Sri Lankan civil war 2004 which is considered to be the human rights violation. Apart from this research paper has also gone further to understand UNHRC’s commitment to work along with Indian government in giving Tamil refugees pure drinking water and required medical aid. This research is based on the primary informations it is very important to understand the nature and the treatment to tackle the research problem. This research has been carried in refugee camp in Gummidipoondi, around 50km from Chennai, Tamilnadu. UNHRC’s aid whether sufficient to give Tamil refugees a hygienic living condition or not And UNHRC’s commitment to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid are the two objectives here in this research paper highlighted upon. To test these objectives the Chi-Square test method was used and the research hypotheses were tested with mixed feedback.

Keywords: Hygienic living condition, Refugee, Medical aid, Pure drinking water, Humanitarian

INTRODUCTION:

It is very frequent to experience, during armed conflicts the human rights are infringed upon the most. Therefore, over the years, practicing social scientists have focused much interest on the formulation of instruments intended at alleviating human suffering during war and conflict. Today, three areas of international law in modern time try to provide protection to war victims: 1) human rights law, 2) refugee law and 3) humanitarian law. While these fields are closely linked, they need to be distinguished systematically. This research paper highlights how the UNHRC has successfully performed its role in Protection of Human Rights of Sri Lankan Refugees in India from the humanitarian point of view that became eminently observed during 2004 civil war. A report released on the human rights violations, On September 16, 2015, the High Commissioner of the UN Office revealed that unlawful killings are the major crime committed, gender-based violence ruined many women’ lives and forced disappearances, committed by the LTTE fighters and Sri Lankan government forces between 2002-2011. The report concludes with a number of recommendations, including those of a general nature as well as more specific ones regarding institutional reforms, justice, truth and the right to know, reparations, and suggestions directed at the United Nations and Member States. This research paper strongly focuses on the UNHRC’s failure in providing aid to provide sufficient hygienic living condition to the to the Tamil refugees living in India during Sri Lankan civil war 2004 which is considered to be the human rights violation. Apart from this research paper has also gone further to understand UNHRC’s commitment to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid.
HUMAN RIGHTS VIOLATIONS

The problems with the Tamil people were no more a new issue in 2004 rather it was an age old problem of the Tamils began earlier than the 1950s. In 1948 Sri Lanka got independence and after that the Sri Lankan government developed the feeling that the Tamils were not the citizen because of their Indian ancestry. To solve the difficulty in dealing with statelessness of the Upcountry Tamils, in 1964 Srimavo-Shastri pact was signed between India and Sri Lanka. However, the process of repatriation of the Indian citizens was very sluggish and this repatriation process intermittently during 1984 due to large degree of violence in Sri Lanka and a following immigrants flow in to India. This led many Indian Tamils who were sent back to India, not able to find their ancestry and had to initiate their lives once more as foreigners leading them to live in terrible environment in tea estates. In the meantime the future of the 84,141 Indian passport holders plus their natural increase remained unclear for many years in Sri Lanka until the choice were made by the Sri Lankan cabinet in 2003 to award identity nationality on the Indian passport holder along with 84,000 Upcountry Tamils born in Sri Lanka after 1964. The discrimination against the Tamil population continued throughout the 1960s as Buddhism was given the primary place in the state and the number of Tamils employed by the state and admitted into institutions of higher learning was greatly restricted. During this period Tamilians responded to their oppression largely through a political and a non-violent protest movement. In the 1970s, however, there was an increased trend towards Tamil separatism and militancy. By 1978, various militant groups had formed the group Liberation Tigers of Tamil Eelam (LTTE) which was in favor of a separate Tamil state. The group demands a separate province for minority Tamils in the island’s north and eastern part.

There are allegations that war crimes were committed by the Sri Lankan military and the rebel Liberation Tigers of Tamil Eelam (Tamil Tigers) during the Sri Lankan Civil War, particularly during the final months of the conflict in 2009. The alleged war crimes include attacks on civilians and civilian buildings by both sides; executions of combatants and prisoners by both sides; enforced disappearances by the Sri Lankan military and paramilitary groups backed by them; acute shortages of food, medicine, and clean water for civilians trapped in the war zone; and child recruitment by the Tamil Tigers. A panel of experts appointed by United Nations Secretary-General (UNSG) Ban Ki Moon to advise him on the issue of accountability with regard to any alleged violations of international human rights and humanitarian law during the final stages of the civil war found “credible allegations” which, if proven, indicated that war crimes and crimes against humanity were committed by the Sri Lankan military and the Tamil Tigers. The panel has called on the UNSG to conduct an independent international inquiry into the alleged violations of international law. The Sri Lanka government has denied that its forces committed any war crimes and has strongly opposed any international investigation. Satellite images published by the UN, foreign governments and scientific organizations showed heavy damage that could have only been caused by bombardment. Inevitably many thousands of civilians were killed or injured, based on credible witness evidence from aid agencies as well. Estimates of the death toll for the final four months of the civil war (mid-January to mid-May) range from 15,000 to 20,000. A US State Department report has suggested that the actual casualty figures were probably much higher than the UN’s estimates and that significant numbers of casualties were not recorded. After the end of the war a number of countries and human rights organizations called for an independent investigation into the final stages of the civil war.

International organizations such as Amnesty International and Human Rights Watch have accused both sides in Sri Lanka’s long-running conflict of deliberately putting civilians at risk to pursue military objectives. Nearly 70,000 people were displaced due to aerial bombardment and artillery attacks by government forces. And in the LTTE-controlled Vanni area, the Tigers have hindered thousands of families from moving to safer places by imposing a strict pass system and, in some instances, forcing some family members to stay behind to ensure the return of the rest of the family. These measures seem designed in part to use civilians as a buffer against government forces – a serious violation of international humanitarian law. The Sri Lankan government has fiercely rejected all claims that its forces committed war crimes.

In May 2009 17 countries (Argentina, Bosnia & Herzegovina, Canada, Chile, France, Germany, Italy, Mauritius, Mexico, Netherlands, Slovenia, Slovakia, South Korea, Switzerland, Ukraine, Uruguay, and the United Kingdom) attempted to get the 11th session of the United Nations Human Rights Council (UNHRC) to investigate war crimes in Sri Lanka. They put forward a resolution that deplored abuses by both the Sri Lankan government forces and the Tamil Tigers, urged the government to co-operate fully with humanitarian organizations and to provide protection to civilians and displaced persons, and made an appeal to the Sri Lankan government to respect media freedom and investigate attacks against journalists and human rights defenders. The UNHRC after investigating and going through all the findings passed a resolution on 27 May 2009 which commended the Sri Lankan government’s actions, condemned the Tamil Tigers and ignored allegations of violations of human rights and humanitarian law by government forces.

Between 14 and 16 January 2010 the Permanent Peoples’ Tribunal held a Tribunal on Sri Lanka in Dublin, Ireland to investigate allegations that the Sri Lankan armed forces committed war crimes and crimes against humanity during its final phase of the war, and to examine violations of human rights in the aftermath of the war and the factors that led to the collapse of the 2002 ceasefire. The tribunal received reports from NGOs and human rights groups, victims’ testimony, eye-witness accounts including from members of the Sri Lankan armed forces, expert testimony, journalistic reports, video footage and photographs. Parts of the tribunal were held in camera to protect the identity of witnesses. The tribunal found the Sri Lankan government guilty of war crimes and crimes against humanity.

The tribunal found numerous instances of human rights violations committed by the Sri Lankan government. Violations between 2006 (end of the ceasefire) and 2009 (end of the war) included: bombing civilian objectives like hospitals, schools and other non-military targets; bombing government-proclaimed ‘safety zones’ or ‘no fire zones’; withholding of food, water, and health facilities in war zones; use of heavy weaponry, banned weapons and air-raids; using food and medicine as a weapon of war; mistreatment, torture and
execution of captured or surrendered Tamil Tiger combatants, officials and supporters; torture; rape and sexual violence against women; deportations and forcible transfer of individuals and families; and desecration of the dead.

The tribunal concluded that the human rights violations during the war (2006–2009) clearly constitute war crimes committed by the Sri Lankan Government, its security forces and aligned paramilitary forces, as defined under the Geneva Conventions and in the Rome Statute (Article 8). Sri Lanka is a signatory of the Geneva Convention but not the Rome Statute. The tribunal found that war crimes were committed irrespective of whether the civil war was considered to be an international conflict or as an internal armed conflict. [10] The tribunal requested that a thorough investigation be held as some of the evidence it had received indicated “possible acts of genocide.” The tribunal could also not find enough evidence to justify the charge of crimes against the peace. Thus there are reasonable grounds to believe the Sri Lankan security forces and LTTE committed war crimes during the final stages of the conflict and that the violations during this period were worse than at any other time during the long civil war. The scale of civilian deaths and suffering demands a response. Peace in Sri Lanka requires some measure of justice. The evidences secured by human rights organizations and crisis groups touch on just a handful of potential crimes. Many others were likely to have been committed especially during the period from January to May 2009. Victims of Sri Lanka’s conflict have certainly been denied justice which has eroded faith in the judicial system, the government and the security forces and has damaged Sri Lanka’s democracy. Even the other countries have a responsibility to press for investigations and prosecutions as an integral part of their efforts to support the people of Sri Lanka in rebuilding their country.

**REFUGEE CONDITIONS**

Millions of people have been forced to leave their homes because of conflicts between Tamil and Sinhalese groups in Sri Lanka. The conflict as well as political and socio-economical discrimination against the Tamilian population in Sri Lanka has forced to flee the people as Tamil refugees to many countries for a peaceful existence. The fear of death, mass destruction including the failure of parliamentary politics and the entrenched of ethnic politics lead to frustration among the Tamilian, eventually they preferred to run away from their home to seek refugee status in other countries especially India.

With reference to UNHCR data in the year 2000 there were 124,160 Sri Lankan refugees originated due to the ethnic clash, whereas in 2001 a subsequent decline (122,420) has observed in total number of refugees but in 2002 it has again increased to 133,239, in 2003 and 2004 there were 122,010 and 114,050 refugees originated due to ethnic conflict in Sri Lanka. The violence has uprooted to both sexes of population including all ages. The data shows that people of 5 to 17 years and 18 to 59 years of ages have been more affected by this brutality. Also, more women have displaced compared to male population.

The flow of Sri Lankan refugees to India can be divided into three broad categories. The first influx began in 1983 and continued till 1987. At the time, about one lac forty thousand arrived in Tamil Nadu to escape ethnic violence in Sri Lanka. The second exodus took place in 1989 when the Indian Peace Keeping Force (IPKF) withdrew from Sri Lankan war struck areas and most of these refugees were repatriated in 1991-92, after the assassination of Rajiv Gandhi. The third and the final flux began in April 1995 and it coincided with the declaration of Eelam War III, the battle between Sinhalese and the Liberation Tigers for Tamil Eelam (LTTE). Today, around 100,000 Sri Lankan refugees are in India, where 57,000 are residing in 111 government run camps in Tamil Nadu state. The refugee camps are located in 23 out of 29 districts of the state.

These refugees are currently living in appalling and subhuman condition. They are not allowed to go out, and if somehow they manage it authorities trap and put them in jail. The quality of life inside the camps is grim. They do not have access to good food nor a descent place to sleep. Discrimination and exploitation by authorities and local people are common in their day to day life. Bathroom and toilet facilities are virtually non-existent. Most of the toilets are blocked and have no roofs. Similarly, the bathrooms have no pipes, just open drains. Residents collect water from four outside wells. Even the streets are unlit. A hospitals runs without power and have limited medical facilities. Adults are expected to survive on monthly stipends of 144 rupees (US$3) and children on 45 rupees (US$1). This amount of stipend they receive is inadequate for survival.

Refugees also have strict restrictions on their freedom of movement and are treated with some degree of suspicion by the Indian government. It is due to assassination of former Indian Prime minister Rajiv Gandhi in 1991 by a suspected member of the LTTE. The camps have morning and evening curfews. Families are often shifted from one camp to another in what is apparently a security precaution. The Government of India does not permit international NGOs and aid agencies, including UNHCR, access to the camps. Refugees who disobey the rules have their monthly stipend and rations cut off as punishment.

For refuge children, there is no proper educational facility. Also the government’s restriction on movements of refugees resulting in preventing them from going to work to supplement their meager dole to make ends meet. Moreover, the exploitation and racial discrimination by the Indian authorities, corruption and abuse of power upon these poor and innocent conflict victims are very high. Once the refugees from Sri Lanka who land in the southern shores of India are classified into ordinary refugees and those suspected to have been former militants. Ordinary refugees are sent to one of the 111 refugee camps in India while those suspected to be former militants are sent to the so called special camps which are totally six in number. Some corrupt police treats the refugees with an oppressive attitude, they arbitrarily decide who should go to the special refugee camp, and they asked the money and belongings. If the refugees fail to pay up the bribe demanded by cops they may end up in the special refugee camps as “suspected militants”.

The basic aim of migration is to get a peace and better life. To help the island refugees the government of India has open 111 refugee camps. Though the government is extending some kind of help to refugees but it is just symbolic. Inside the camp the life of refugees is very miserable. They are suffering from food shortages and malnutrition. Their living condition is extremely deplorable; the food grains provided to the refugees in camps are of very bad quality. Refugees from Sri Lanka are made to suffer the most inhuman treatment and tortuous conditions because of the political animosity of the Indian state towards the Tamil militancy in Sri Lanka. The Indian state and central governments does not seem to realize that the ordinary helpless refugee cannot be victimized to settle scores.
with the Tamil militant movement in Sri Lanka. All the state sponsored oppression on the refugees fleeing Sri Lanka is justified in the name of Rajiv Gandhi’s murder allegedly by Tamil militants. As India has not signed the international convention for refugees, the terrible plight of the Sri Lankan refugees in India is not brought to the scrutiny of the United Nations High Commission for Refugees and no other major human rights organization has taken note of the suffering of the Tamils languishing in the “special camps” in India which are nothing but concentration camps.

The signing of the memorandum of understanding (MoU) between the Sri Lankan government and the LTTE on February 24, 2002, and the lifting of the ban on the latter, the stage has been set for the repatriation of some 65,000 camp refugees in India to their country of origin. Some of the broad objectives of the MoU have been fulfilled, such as return of public buildings and schools occupied by the army and the LTTE to local bodies, opening of the A9 highway for the free flow of goods and essential services, removal of restrictions on fishing, and the establishment of local monitoring committees in Jaffna, Mannar, Vavuniya, Trincomalee, Batticaloa, and Ampara.

**ANALYSIS AND INTERPRETATION:**

**Hypothesis Testing-1**

Null hypothesis to be tested,

\( H_0: \text{UNHRC's aid is not sufficient to give Tamil refugees a hygienic living condition.} \)

To test the goodness of fit there is the need to use the chi-square test, and so need to calculate the expected values that correspond to the observed values in the table-1.1 above. To accomplish this there is need to use the Basic Probability Concepts that if \( A \) and \( B \) are independent events then \( P (A \cap B) = P(A) \cdot P(B) \). Here it is to assume that the proportions of the sample are good estimates for the probabilities of the expected values.

**Here,**

\( A = \text{sufficient}, \ B = \text{hygienic living condition} \)

### Table: 1.1: Sufficiency of hygienic living condition

<table>
<thead>
<tr>
<th>ACTUAL</th>
<th>sufficient</th>
<th>Not sufficient</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hygienic living condition</td>
<td>137</td>
<td>78</td>
<td>215</td>
</tr>
<tr>
<td>Non-hygienic living condition</td>
<td>93</td>
<td>72</td>
<td>165</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>230</td>
<td>150</td>
<td>380</td>
</tr>
</tbody>
</table>

### Table: 1.2: Chi-square Test

<table>
<thead>
<tr>
<th>Test</th>
<th>Calculated Value</th>
<th>df</th>
<th>Tabulated Value</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chi-Square(( \chi^2 ))</td>
<td>2.12</td>
<td>1</td>
<td>3.84</td>
<td>ACCEPTED</td>
</tr>
</tbody>
</table>

From the table-1.1 it is observed that the samples collected show that the sufficiency in UNHRC’s aid for improving the hygienic living condition. The importance of Chi-square method here arises as there are two undefined groups of responses are available and there is the requirement to test the null hypothesis. As per the information received it is observed that total 230 number of respondents who agreed about the UNHRC’s aid is sufficient in providing the hygienic living condition which says the frequency of the respondents i.e. sufficient and Not sufficient are 230 and 150 respectively. Based on the observed data it is required to find the expected frequency, the table-1.1 now shows the expected values. It is observed that 215 of the 380 people in the sample are accepting ‘UNHRC’s aid is sufficient to provide Hygienic living condition’, and so the probability that someone in the sample is from ‘effectiveness of Multimedia Backed Teaching Methodology for English teaching’ is 215/380 = 56.58%.

The table-1.1 derives the degree of freedom (\( df \)) that is calculated as, \( df = (c-1) \times (r-1) = 1 \times 1 = 1 \). Now the chi-square test is conducted taking observed frequency, expected frequency and degree of freedom. The table-1.2 depicts the chi-square test; the calculated value is 2.12 is less than the **tabulated value at 1 degrees of freedom at 5% significance level i.e. 2.12 < 5.99. Since the calculated value is lower than the tabulated value the null hypothesis is **Accepted** i.e. ‘UNHRC’s aid is not sufficient to give Tamil refugees a hygienic living condition’ is **Accepted**.

**Hypothesis Testing-2**

Null hypothesis to be tested,

\( H_0: \text{UNHRC is not committed to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid.} \)
To test the goodness of fit there is the need to use the chi-square test, and so need to calculate the expected values that correspond to the observed values in the table-1.1 above. To accomplish this there is need to use the Basic Probability Concepts that if A and B are independent events then \( P(A \cap B) = P(A) \cdot P(B) \). Here it is to assume that the proportions of the sample are good estimates for the probabilities of the expected values.

Here, 
A= commitment, B = providing pure drinking water and required medical aid

<table>
<thead>
<tr>
<th>ACTUAL</th>
<th>Committed</th>
<th>Not Committed</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Providing pure drinking water and required medical aid</td>
<td>187</td>
<td>67</td>
<td>254</td>
</tr>
<tr>
<td>Not providing pure drinking water and required medical aid</td>
<td>84</td>
<td>42</td>
<td>126</td>
</tr>
<tr>
<td>TOTAL</td>
<td>271</td>
<td>109</td>
<td>380</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPECTED</th>
<th>Committed</th>
<th>Not Committed</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Providing pure drinking water and required medical aid</td>
<td>181.14</td>
<td>72.86</td>
<td>254</td>
</tr>
<tr>
<td>Not providing pure drinking water and required medical aid</td>
<td>89.86</td>
<td>36.14</td>
<td>126</td>
</tr>
<tr>
<td>TOTAL</td>
<td>271</td>
<td>109</td>
<td>380</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table: 1.4: Chi-square Test</th>
<th>Calculated Value</th>
<th>df</th>
<th>Tabulated Value</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chi-Square((\chi^2))</td>
<td>1.99</td>
<td>1</td>
<td>3.84</td>
<td>ACCEPTED</td>
</tr>
</tbody>
</table>

From the table-1.3 it is observed that the samples collected show that the commitment of UNHRC to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid. The importance of Chi-square method here arises as there are two undefined groups of responses are available and there is the requirement to test the null hypothesis. As per the information received it is observed that total 271 number of respondents who agreed about the UNHRC’s commitment to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid which says the frequency of the respondents i.e. Committed and Not Committed are 271 and 109 respectively. Based on the observed data it is required to find the expected frequency, the table-1.3 now shows the expected values. It is observed that 254 of the 380 people in the sample are accepting ‘UNHRC is committed to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid’, and so the probability that someone in the sample is from ‘effectiveness of Multimedia Backed Teaching Methodology for English teaching’ is \(\frac{254}{380} = 66.84\%\).

The table-1.3 derives the degree of freedom (df) that is calculated as, \(df = (c-1) \times (r-1) = 1\times 1 = 1\). Now the chi-square test is conducted taking observed frequency, expected frequency and degree of freedom. The table-1.4 depicts the chi-square test; the calculated value is 1.99 is less than the tabulated value at 1 degrees of freedom at 5% significance level i.e. 1.99 < 5.99. Since the calculated value is lower than the tabulated value the null hypothesis is Accepted i.e. ‘UNHRC is not committed to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid’ is Accepted.

**FINDINGS:**
From the above analysis, it is observed that:

- The hypothesis -1 is accepted i.e. *UNHRC’s aid is not sufficient to give Tamil refugees a hygienic living condition* is Accepted. And
- The hypothesis -2 is accepted i.e. *UNHRC is not committed to work along with Indian government in giving the Tamil refugees pure drinking water and required medical aid* is Accepted.
CONCLUSION:
Migration, whether voluntary or forced, has always been a characteristic of individual and collective human behavior. Today human displacement and refugee flows have been a feature and consequences of conflict within and between societies. In the case of Sri Lanka, since the year 1983 the ethnic conflict between the majority Sinhalese and the minority Tamil has already killed off about 60,000 people, and has also produced some 800,000 internally displaced persons and has forced millions of people to migrate as refugees making them one the world’s largest groups of asylum seekers. This violent environment in the island has brutalized the civil society, giving rise to a climate a chauvinist hysteria and intolerance.

This paper thus highlights the importance of UNHRC in providing basic humanitarian help to the displaced Tamil refugees who have come to India for safe haven. The results have shown that the refugees are not getting the amount of help from UNHRC what they think the UNHRC could provide in true sense. This could be the over expectation of people or it could be the inability of UNHRC to work in coordination with Indian government in providing the humanitarian support to the refugees. This paper opens another front to study the expectation of the refugees from the UNHRC and the gap that causing distress among the Tamil people.

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