



Sri Lankan Tamil Refugees' Struggle for Indian Citizenship

For Prelims: [Sri Lankan Tamil refugee](#), [Liberation Tigers of Tamil Eelam](#), [Article 21](#), [Rohingya refugees](#), [Acquisition of Indian Citizenship](#), [United Nations High Commission for Refugees](#)

For Mains: Statelessness and its implications for human rights, Citizenship in India, Challenges faced by refugees in India, Ethnic violence in Sri Lanka and its impact on India

[Source: TH](#)

Why in News?

The Madurai Bench of the Madras High Court has instructed the **Union Ministry of Home Affairs** to consider the **Indian citizenship application of a [Sri Lankan Tamil refugee](#)**, who has been residing in India since 1984.

- This directive emphasizes the rights of Sri Lankan Tamil refugees under Indian law.

Note: A Sri Lankan Tamil refugee, born in Sri Lanka in 1975, moved to **India in 1984** due to ethnic conflict. The individual applied for **Indian citizenship in 2022** under **Section 5(1)(a) of the [Citizenship Act, 1955](#)**, but no action was taken.

- Despite **residing in India for over 40 years**, the person remains without citizenship, hoping for legal recognition.
- The recognition could expedite citizenship for other long-term refugees, especially those who fled during the ethnic conflict in Sri Lanka.

What is the Plight of Sri Lankan Tamil Refugees?

- **Historical Background:** Indian-origin Tamils were brought to Sri Lanka by the British during colonial times as [indentured laborers](#) for plantation work.
- **Social Isolation:** These Tamils were largely excluded from the **political and civil life of Sri Lanka**, facing marginalisation from both the **Sinhalese** (people of Sri Lanka) and native Tamil communities.
- **Post-1948 Struggles:** After Sri Lanka's independence (1948), rising **Sinhalese nationalism** further disenfranchised **Indian-origin Tamils**, who were denied citizenship rights and relegated to statelessness (a person is not recognized as a citizen by any country).
- **Bilateral Agreements:** The **Sirimavo-Shastri Pact (1964)** and **Sirimavo-Indira Gandhi Pact (1974)** outlined that up to **six lakh Indian-origin Tamils** and their descendants could be **granted Indian citizenship**, but this process stalled due to various factors, including the [Sri Lankan civil war](#).
- **CAA 2003:** Indian-origin Tamils who returned to **India before 1982** were granted

citizenship, but subsequent arrivals **after 1983** were categorized as '**illegal migrants**' under the **Citizenship (Amendment) Act (CAA) 2019**.

- Indian-origin Sri Lankan Tamils refugees, who fled the **Civil War in Sri Lanka** fought between the **separatist Tamil forces (Liberation Tigers of Tamil Eelam (LTTE))** and the **Sri Lankan government from 1983 to 2009**, are not eligible for **Indian citizenship despite living in India for decades**.
 - The lack of a **formal refugee law** leaves refugees in legal uncertainty, with no clear path to citizenship or permanent status.
- **Court Rulings:** Madras High Court in **P. Ulaganathan vs Government of India, 2019 case**, emphasized that their **exclusion** infringes upon the **right to life and personal liberty (Article 21 of the Constitution)**, making the case for an urgent resolution.
 - In the **Abirami S. vs Union of India (2022) case**, the Madras High Court called for a **humanitarian approach** to grant citizenship to Indian-origin Tamils, supporting the principles of the **Citizenship (Amendment) Act (CAA) 2019**, which eases citizenship conditions for Hindus from Afghanistan, Pakistan, and Bangladesh.

Refugees In India

- **About:** Refugees are individuals who have fled their countries due to severe threats to their life, safety, or freedom, requiring international protection from persecution, armed conflict, violence, or public unrest.
- **India's Refugee Asylum History:** India has historically hosted various refugee groups, including **Tibetans** fleeing Chinese occupation, **Bangladeshi refugees** post-1971 war, **Sri Lankan Tamils**, and **Rohingya refugees (Myanmar)**.
- **India's Challenges in Managing Refugees:**
 - **Lack of Legal Framework:** India is not a signatory to the **1951 Refugee Convention**, leading to no clear legal definition of refugees, which complicates distinguishing between **economic migrants and genuine refugees**.
 - Indian law does **not recognize any illegal immigrant as a refugee** and is concerned about compromising **sovereignty and potential security risks from refugees**.
 - **Porous Borders:** India's porous borders make **regulating refugee entry difficult**, leading to influxes, especially in Assam and West Bengal, overwhelming local resources and infrastructure.
 - **Limited Resources:** India's limited resources and infrastructure hinder its ability to assist and integrate refugees, restricting access to basic services like education, healthcare, and employment.

Statistical Data of Refugees



108.4 M (Approx.)

Forcibly displaced people worldwide



Türkiye (Turkey)

Hosts maximum
3.6 M refugees



Syria

Originates maximum
6.8 M refugees

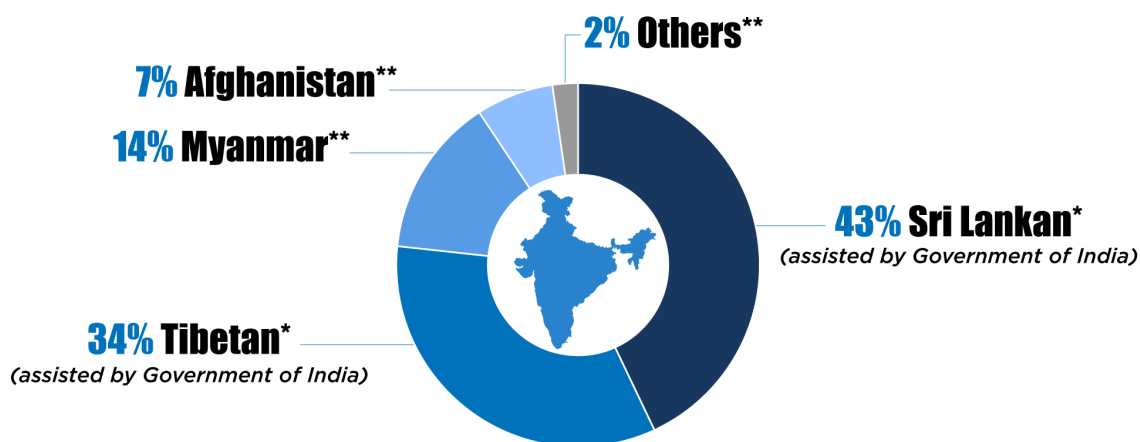


40% (Approx.)

Children below
18 years of age



India hosts approx. 2.5 Lakh Refugees and Asylum-Seekers



*Refugees registered by the Government of India | Source- <https://www.unhcr.org/in/>

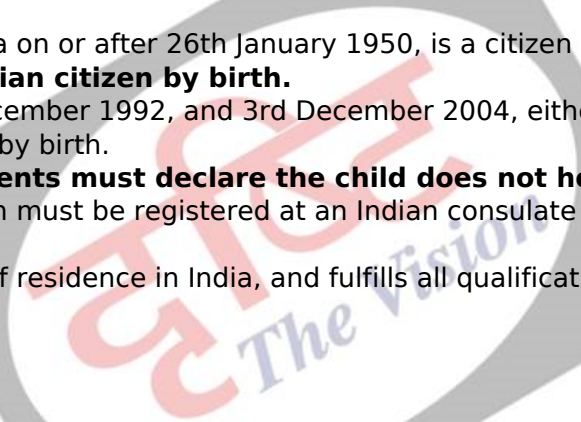
** Refugees and Asylum-Seekers registered with UNHCR India (as of 31 March 2023)

What are the Challenges Faced by Stateless Individuals?

- **Lack of Basic Rights:** Stateless individuals are often denied fundamental rights like **education, healthcare, and social services**, as they don't have recognized citizenship.
- **Limited Legal Protection:** Without legal status, stateless refugees are vulnerable to **exploitation, including forced labor, human trafficking**, and other forms of abuse, as they lack the protection that **nationality** and legal status afford.
- **Economic Exclusion:** They often **cannot work legally**, open bank accounts, or access public welfare programs, leading to **economic insecurity**.
- **Social Marginalization:** Stateless individuals face **social exclusion and discrimination**, both from state authorities and society, leading to isolation and a lack of integration.
- **Intergenerational Impact:** Statelessness can be passed down through generations, leading to a **cycle of deprivation and disenfranchisement**.
 - Stateless children may **lack property inheritance, parental support, and legal protections**. This uncertainty can lead to **mental health issues like anxiety, and depression**.

What is the Process of Acquisition of Indian Citizenship?

- India's citizenship laws incorporate both **jus soli and jus sanguinis principles**, balancing birthright and descent in the framework.
 - **'jus soli'** grants citizenship based on birthplace, while **'jus sanguinis'** recognizes blood ties.
- Indian citizenship can be acquired by birth, descent, registration and naturalization, as outlined in the **Citizenship Act, 1955**.
 - **By Birth:** Persons born in India between **26th January 1950 and 1st July 1987** are Indian citizens regardless of parentage.
 - Between **1st July 1987 and 2nd February 2004**, if at least one parent is an Indian citizen, the child is a citizen.
 - After **3rd December 2004**, both parents must be Indian or one must be Indian and the other not an illegal migrant.
 - **By Registration:** Citizenship can be acquired by registration under certain conditions, such as a **person of Indian origin who has resided in India for 7 years (Section 5(1)(a))**.
 - Persons of Indian origin who are ordinarily residents in any country or place outside undivided India.
 - Spouses of Indian citizens who have been residing in India for 7 years before applying for registration.
 - Minor children of Indian citizens.
 - **By Descent:** A person born outside India on or after 26th January 1950, is a citizen by **descent if their father was an Indian citizen by birth**.
 - For those born between 10th December 1992, and 3rd December 2004, either parent must be an Indian citizen by birth.
 - After **3rd December 2004, parents must declare the child does not hold another passport**, and the birth must be registered at an Indian consulate within one year.
 - **By Naturalization:** Requires 12 years of residence in India, and fulfills all qualifications in the third schedule of the Citizenship Act.



Citizenship

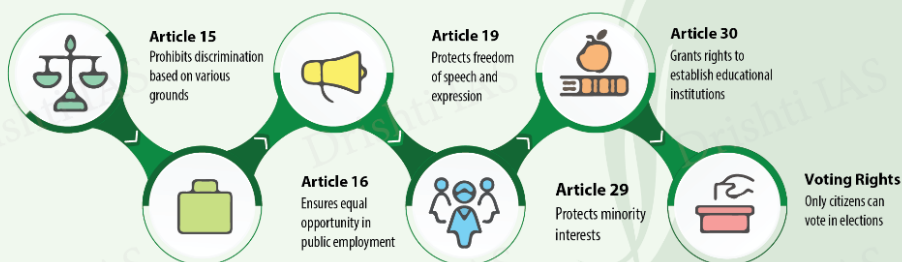
Citizenship is the legal recognition of an individual as a member of a state, granting rights and privileges, and requiring allegiance. In India, it defines who holds these rights and follows citizenship laws.

Constitutional Provisions Related to Citizenship

Articles 5 to 11 of the Indian Constitution deal with citizenship provisions, specifically outlining who became citizens at the commencement of the Constitution (January 26, 1950).



Rights Available Only to Citizens of India



Citizenship Act, 1955

- **Acquisition and Loss:** This Act outlines:
 - Ways to acquire Indian citizenship:
 - Birth
 - Descent
 - Registration
 - Naturalization
 - Incorporation of territory
 - Conditions under which citizenship can be lost:
 - Renunciation
 - Termination
 - Deprivation
- **Amended 6 Times (since 1986):** 1986, 1992, 2003, 2005, 2015, and 2019

Citizenship Amendment Act, 2019:

- ◆ **Eligibility:** Grants citizenship to six communities (Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians) from **Pakistan, Afghanistan, and Bangladesh** who entered India on or before **31st December 2014**.
- ◆ **Exemptions from Legal Punishments:** The Act exempts these communities from prosecution under the **Foreigners Act, 1946** and the **Passport Act, 1920** for illegal entry or overstaying in India, thereby providing them with a pathway to **citizenship without facing legal consequences**.



Citizenship Amendment Act (CAA), 2019

- **About:** The CAA, 2019 amends the **Citizenship Act, 1955**, that provides a path to **citizenship in India** for **certain illegal migrants from Afghanistan, Bangladesh, and Pakistan**.
- **Eligible for Indian citizenship under CAA, 2019:** Persons from the **Hindu, Sikh, Buddhist, Jain, Parsi, or Christian communities** in Afghanistan, Bangladesh, or Pakistan.
 - Entered India on or before **31st December 2014**.
 - Exempted individuals under **section 3(2)(c) of the Passport (Entry into India) Act, 1920** or from the application of the provisions of the **Foreigners Act, 1946** or any rule or order made thereunder.
 - These laws penalize illegal entry and overstaying in India.

Way Forward

- **Legislative Action:** The Indian government must take corrective legislative action to grant citizenship to Indian-origin Tamils, including those who arrived **post-1983**. This may require retroactive measures to manage **statelessness**.
 - According to the [United Nations High Commission for Refugees \(UNHCR\)](#), there are around **29,500 Indian-origin Tamils currently living in India**, and India has a **moral and legal obligation to provide** them with a pathway to citizenship.
- **Naturalization Process:** Simplify and expedite the process for Sri Lankan Tamil refugees to acquire Indian citizenship, based on residence (Naturalization) and integration.
- **Humanitarian Approach:** The government must adopt a **compassionate and humanitarian stance**, going beyond legal technicalities to restore the dignity and rights of Indian-origin Tamils.
 - Implement programs for vulnerable groups, like UNHCR's "**Safe from the Start**" in **Ethiopia**, to prevent **sexual and gender-based violence** in refugee camps.
- **Reconciliation:** Foster dialogue and peace-building efforts between refugees and local communities to enhance social cohesion.

Read more: [Issue of Tamilians in Sri Lanka](#)

Drishti Mains Question:

Discuss the legal challenges faced by Sri Lankan Tamil refugees in India. How does their statelessness affect their access to basic rights and services?

UPSC Civil Services Examination, Previous Year Question:

Prelim

Q. Consider the following pairs: (2016)

Community sometimes mentioned in the news	In the affairs of
1. Kurd	Bangladesh
2. Madhesi	Nepal
3. Rohingya	Myanmar

Which of the pairs given above is/are correctly matched?

- (a) 1 and 2
- (b) 2 only

- (c) 2 and 3
(d) 3 only

Ans- C

Mains

Q. “Refugees should not be turned back to the country where they would face persecution or human right violation.” Examine the statement with reference to the ethical dimension being violated by the nation claiming to be democratic with open society. **(Mains 2021)**

PDF Refernece URL: <https://www.drishtiias.com/printpdf/sri-lankan-tamil-refugees-struggle-for-indian-citizenship>

