

Report on the I-Tran Mission to Malaysia and India, January and February 2017

by David Matas

I went to Kuala Lumpur, Chennai and New Delhi on behalf of I-TRAN. I was in Kuala Lumpur from January 28th to February 1st. I was in Chennai from February 1st to February 7th. I was in New Delhi from February 7th to February 11th. In Malaysia, Harnika Chand joined me in several of the meetings. Sam Ratna joined me part way through my time in Chennai.

In Kuala Lumpur I met with

- 1) the NGO STROM (Sri Lanka Tamil Refugees of Malaysia, along with several and several Sri Lankan Tamil refugees,
- 2) Brian Gorlick, Deputy Representative (Protection) along with Suenanica de Rozario, Assistant Registration Officer, Gabriele Olivi, Refugee Status Determination Officer, Rachel Demas, Resettlement Officer of the Office of the United Nations High Commissioner for Refugees,
- 3) the lawyer Waytha Moorthy, chair of the NGO HINDRAF (Hindu Rights Action Force),
- 4) Eleanor Belshaw-Hauff, Second Secretary (Political) the Canadian High Commission, Malaysia



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In Chennai, I met with

- 5) Era Elamparithi, Senior Research Fellow, Department of Criminology, University of Madras,
- 6) Satchithananda Valan Michael, Associate Repatriation Officer, Office of the United Nations High Commissioner for Refugees,
- 7) retired professor V. Suryanarayan,
- 8) Professor K.M. Parivelan of Tata Institute of Social Sciences, Mumbai,
- 9) Professor Ramu Manivannan, Head of the Department of Politics and Public Administration, University of Madras
- 10) Dr. P. Umanath, Director, the Commissionerate of Rehabilitation and Welfare of Non-Resident Tamils, Government of Tamil Nadu and
- 11) former Member of Parliament EM Sudarsana Natchiappan and a former chair of the Parliamentary Forum on Human Rights.



Era Elamparithi, Senior Research Fellow, Department of Criminology, University of Madras,



Retired Professor V. Suryanarayan,



Professor K.M. Parivelan of Tata Institute of Social Sciences, Mumbai,



David Matas and Sam M. Ratna met with Professor Ramu Manivannan, Head of the Department of Politics and Public Administration, University of Madras



Steering committee met with former Member of Parliament EM Sudarsana Natchiappan and a former chair of the Parliamentary Forum on Human Rights.



David Matas spoke at a seminar at the University of Madras with the title "Perspectives on Durable Solutions for Sri Lankan Tamil Refugees in India" on February 6, 2017.

I also spoke at a seminar at the University of Madras with the title "Perspectives on Durable Solutions for Sri Lankan Tamil Refugees in India" on February 6, 2017. The programme for the seminar is attached to this report. The subject of my talk was resettlement of Sri Lankan Tamil refugees as a durable solution. The text of my presentation is attached to this report.

In New Delhi, I met with

- 12) Sanya Sitaravam, a senator with the TGTE (Transnational Government of Tamil Eelam)
- 13) Yasuko Shimizu, Chief of Mission, the Office of the United Nations High Commissioner for Refugees
- 14) Trinanjan Radhakrishnan and Yashasvi Nain, as well as others, of the Commonwealth Human Rights Initiative



David Matas spoke at the Supreme Court of India at a symposium on with the title "What would happen to Sri Lankan Tamil Refugees in India" which took place on February 9th, 2107.

- 15) Retired Ambassador KP Fabian, at the India International Centre
- 16) Gillian Frost, Counsellor & Head, and Madhuri Das, Senior Analyst, both of the Political and Economic Programme of the High Commission of Canada
- 17). Nagarajan, Advocate-On-Record, Supreme Court of India
- 18) Anviti Chaturvedi, PRS (Institute of Public Research Studies) Legislative Research

I also spoke at the Supreme Court of India at a symposium on with the title "What would happen to Sri Lankan Tamil Refugees in India" which took place on February 9th, 2107. A poster for the event is attached. I spoke on local integration in India as a durable solution for Sri Lankan Tamil refugees. My talk is attached.

The bulk of my observations and conclusions from this mission can be found in the two attached texts on resettlement and local integration. The Chennai seminar text addresses resettlement from both Malaysia and India. For Malaysia, resettlement from Canada is done in Singapore. The New Delhi symposium text addresses local integration in India. In what follows, I add a few remarks about local integration in Malaysia.

I was in Malaysia in February 2016, a year earlier. Since that visit, the situation of Sri Lankan Tamil refugees in Malaysia has not changed dramatically. According to Office of the United Nations High Commissioner for Refugees (UNHCR) fact sheet for November 2016, there were, at the end of November 2016, 2,890 Sri Lankan refugees and asylum seekers registered with the UNHCR.

During my last visit the Office of the United Nations High Commissioner for Refugees was planning to issue a holographic identity card for refugees which could not be counterfeited. That card has now been distributed. Its distribution has cut down on the number of police arrests of refugees. The police still extort refugees even with valid cards for bribes. But the number is less than before the issuance of the cards.

The cards are available to recognized refugees only and not to those with claims pending. I suggested to staff of the local Office of the United Nations High Commissioner for Refugees that these cards, with appropriate indication of status, also be distributed to those awaiting determination of their claims. The view of the UNHCR is that it would take the agreement of the Government of Malaysia for that to happen.

The health insurance made available to refugees with the assistance of the UNHCR has now been operational for a while and seems to be operating well. The problem is limitation of coverage. The insurance covers hospital treatment but not out-patient treatment.

The UNHCR in October 2016 announced an arrangement with Qualitas, a network of 80 private clinics across Malaysia, to provide primary health care to refugees at low cost. The system has just started and some of the clinics in the system have not yet operationalized it.

Work remains a problem. Work is available, but it is illegal, leading to employer exploitation and police harassment. The Government of Malaysia in November 2016 announced a pilot project allowing work permits for 300 Rohingya refugees to work in the plantation and manufacturing sector. The UNHCR took some comfort from the project as a sign that the Government of Malaysia was not completely hostile to allowing refugees to work legally. However, the population is just Rohingyas, the numbers are small, and the pilot project is inordinately long. So, it does not hold out the prospect of an immediate solution to the work related problems of Sri Lankan Tamil refugees in Malaysia.

Refugees can not get driver's licences or open bank accounts. They can not register the births of their children. They can not register their marriages locally. The inability to register marriages means that foreign spouses can not sponsor local spouses. To overcome these disabilities, a UNHCR identity card is insufficient. They would need Government of Malaysia issued identity cards.

Having a valid Sri Lankan passport might help. However, refugees are reluctant to approach the Sri Lankan High Commission because, if they do so, they are interviewed. Refugees are worried that information from the interviews will be passed on to the Government in Sri Lanka potentially causing problems for their families back home.

I tried to meet, this time again without success, with the Malaysian Indian Congress (MIC), a component of the Parliamentary governing coalition in India. The MIC consists largely of local Tamils. I also tried, in particular, to meet with Education Deputy Minister, P.

Kamalanathan, also without success. The failures were instructive. They indicate that the members of the current Government, including its Tamil component, are not that much interested in helping Sri Lankan Tamil refugees. About the motivation, one can speculate. But the reality is there.

Sri Lankan Tamil refugees suffer from lack of priority. They wait longer than others for refugee determinations. Refugee determination for this population now takes three to four years. Resettlement, when it happens, is also slow, much slower than for other refugee populations. When refugees get arrested, it takes many months before the UNHCR comes to the prisons to confirm their identity and arrange for them to get out.

The population is languishing because of the lack of priority. The problems associated with marginalization, exploitation, arbitrary detention, extortion and limbo should not be minimized. The priority for this population needs to be increased.

Canada rejects privately sponsored UNHCR recognized refugees in large numbers. In 2013, the Canadian visa office in Singapore, on visits to Malaysia, interviewed 36 privately sponsored refugee families. Only six were accepted. Thirty were rejected. All had been recognized by the UNHCR as refugees.

While Canada has every right to make its own refugee determinations, this high rejection rate is disrespectful of UNHCR determinations. Moreover the relative expertise on refugee determinations lies with the UNHCR. Canada should be deferring to UNHCR determinations unless its visa officers have compelling reasons for diverging from them. That is not the case now.