# Assessing "Belonging" and Claims of "Home" among Refugees:
# A Note on Repatriation in South Asia

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## Abstract

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. In India, Sri Lanka and Bangladesh, the state-formation processes after decolonisation shaped the nature of citizenship rights. The state allocated and legalised "belonging" by providing social, economic and political rights to the members and excluded certain categories of people. This paper examines 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 of refugees as "citizens" of either their country of refuge or country of origin affects the decision to repatriate "home".

## Author Profile

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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. In India, Sri Lanka and Bangladesh, the state-formation processes after decolonisation shaped the nature of citizenship rights. The state allocated and legalised "belonging" by providing social, economic and political rights to the 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[1] of refugees as "citizens" of either their country of refuge or country of origin affects the decision to repatriate "home".

This paper draws from a diverse literature – refugees, migration, state-formation, and citizenship – to analyze refugee behaviour and to understand how they lack recognition in the country of origin and of asylum during refugeehood and sometimes even upon repatriation. In a period of globalization, movement of population across international borders due to political and economic conditions presupposes the rights of mobile groups. With respect to refugees, such a presupposition 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' in India and 'at home' in Bangladesh and Sri Lanka respectively. I explore links between the rights of certain groups of people in postcolonial societies, the state-formation and refugee-generation process, the lack of formal recognition in the country of asylum and in the motivation to repatriate home.

Three sets of interrelated questions are explored. First, why do refugee studies emphasize repatriation and overlook problems of integration in post-repatriation context? Second, what is the rationale of asylum states in denying status to refugees in exile? In the following section, I address these questions by engaging with the literature on citizenship to outline first, the determinants of belonging in exile and *home* and how there are challenges from within. This discussion leads to the section on creating a theoretical framework to understand the problems of belonging and repatriation in the context of refugees in these South Asian nations.

Since the state provides legitimacy to members based on legal standing, it denies the same to non-members. Moreover, territoriality forms the basis for rights and entitlements of members of a state. The notion of such membership or citizenship is based on the assumption 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 discusses the relationship between citizenship laws and their "explicit tie to…unique territoriality defined politics."[2] I argue that if refugees were to be accepted within a framework of 'partial recognition', the need to repatriate may itself be

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[1] 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.

[2] Jeffery Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton, NJ: Princeton University Press, 2000).

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subverted, 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 creating this sense of belonging for refugees.

## 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 are considered legal members of the state. These rights of citizenship are granted either on the basis of birth or domicile or marriage. 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 their decision to continue to reside in exile or to repatriate "home".

However, non-citizens can also 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. The sense of belonging depends on a perceived sense of attachment to a certain land and the resulting identity. Soguk asserts, refugees or "moving people" tend to "transgress political or cultural borders" and seek to "reaffirm" the proposed boundaries of belonging. In contrast to statist rules of belonging, migration empowers those who move as they challenge the government's ability to impose "difference" by patrolling the "dynamics of bodies" at the borders.[3]

However, as pointed out earlier, 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" framework of rights to both inhabitants and outsiders. It engages in strategies of accommodation to "incorporate" outsiders. Two such strategies are the assimilationist and the pluralist models. 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 specificities of immigrant communities. The culture and the values of the immigrant community are sought to be submerged within the dominant culture.  The pluralist model, in contrast, accepts immigrant communities as "ethnic communities" with distinguishable characteristics, such as language or culture, and embraces them as citizens. Pluralism would imply that immigrants are given complete access to all spheres of society.  Though the pluralist model has a higher level of inclusion than the assimilationist model, both have faced many problems in practice and have limited application in relation to determining refugee rights.

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

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[3] Nevzat Soguk, *States and Strangers: Refugees Displacement of Statecraft* (Minnesota: University of Minnesota Press, 1999), 293.

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weakness in the literature to prefer nationality-based membership, it has made some strides in accommodating a few changes. This literature insists that the role of the state is decreasing and therefore new approaches to determine citizenship are becoming more common. The traditional approaches that are typified by rights-based understandings such as Marshall,[4] Black,[5] and Shklar[6] 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.[7] 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.[8] Bosniak and Sassen 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*[9] or *post national*[10] citizens.

Multiculturalists in the citizenship literature argue that "citizen as identity" should take precedence over citizenship as a legal status of membership. In this context Soysal 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. 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.[11] Soysal[12] and Sassen[13] posit

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[4] Marshall discusses progressive rights in civil, economic, and political spheres in capitalist societies. See T. H. Marshall, *Citizenship and Social Class* (Cambridge: Cambridge University Press, 1949).

[5] As quoted by Bosniak (2000), Black (1969) "employs citizenship" as rights to have "full and equal membership". See Linda Bosniak, "Citizenship de-nationalized", *Indiana Journal of Global Legal Studies,* 7(2000): 447-510.

[6] Shklar refers to individual's standing in society. See Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge: Harvard University Press, 1991).

[7] Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* 102, no. 2 (1994): 352-381.

[8] I am grateful to Linda Bosniak for proposing the problem of alienage. In this paper I argue that state-centric views on citizenship rights determined issues of belonging.

[9] 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.

[10] 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 "national-state." Sassen (1996, 1999, 2000) tends also to differentiate between denationalized as conceptualized by Bosniak and as one put forward by her.

[11] Roger Brubaker, *Citizenship and nationhood in France and Germany*. (Cambridge: Harvard University Press, 1992),132.

[12] Yasemin N. Soysal, *Limits of Citizenship: Migrants and Postnational membership in Europe*. (Chicago: The University of Chicago Press. 1994).

[13] Saskia Sassen, *Losing control? Sovereignty in an Age of Globalization*. (New York: Columbia University Press, 1996); Saskia Sassen, *Democracy, Citizenship and the Global City*. (New York: Routledge, 2000).

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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 asserts that foreigners who reside in countries for long periods of time should be entitled to substantial rights.[14] 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.

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 "post national" citizenship that leads to the "de-coupling of political identities from national membership".[15] 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 concept of citizenship allows "individuals to develop and sustain multiple allegiances and networks across state boundaries, in inter- as well as transnational context" and leads to a cosmopolitanism that can sustain different communities of language, culture, etc.[16]

Other scholars like Bosniak assert that the importance of the state is far from waning.[17] In this paper, 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. 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 quest for membership 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, refugees eventually undertake acts of repatriation due to their prolonged stay in an 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

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[14] Tomas Hammar, "Citizenship: Membership of a Nation and of a State," *International Migration* 24 (1986): 735-47 and Tomas Hammar, *International Migration, Citizenship and Democracy*. (Aldershot: Gower, 1990).

[15] Saskia Sassen, *Guest and Aliens*. (New York: The New Press, 1999).

[16] Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens*. (Cambridge: Cambridge University Press, 2004), 174.

[17] Linda Bosniak, "Universal Citizenship and the Problem of Alienage," *Northwestern University Law Review* 94, no. 3 (2000): 963-982.

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significant since they lack status and rights in the asylum state. The state is not losing its significance; rather, the state has shifted its approach, advancing a rights-based membership rather than a 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. 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. 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. I distinguish between the concepts of "home" and a "homeland"[18] 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."[19]

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 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 and Kibreab have provided different perspectives on home.[20] First, home is a personal space of identification; second, it is the "nodal point of social relations"; 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

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[18] 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.

[19] See Stefan Wolff, "German Expellee Organizations between 'Homeland' and 'at Home': A Case Study of the Politics of Belonging," *Refuge* 20, no. 1 (2001): 52-65.

[20] Karen Fog Olwig, "Cultural Sites: Sustaining a Home in a Deterritorialized World", in *Siting Culture: The Shifting Anthropology Object*, edited by Karen Fog Olwig and Kristen Hastrup (New York: Routledge, 1997), 17-39. Gaim Kibreab, "Revisiting the Debate on People, Place Identity and Displacement", *Journal of Refugee Studies* 12 (1999): 384-411.

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"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[21], Karadawi[22] 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, Malkki, Hammond [23], disagree with this premise; and claim that "the place attachment model" perceived "home" as a fixed place capable of exerting considerable influence on refugees' decisions to repatriate. 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[24] 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 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[25]. Hammond and Allen and Turton 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 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.[26] 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.[27] 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 paper that despite varied notions of "home," these notions have an impact upon the refugees' decisions of repatriation to "home" and

[21] Gervase Coles, "Voluntary repatriation: A background study", Paper prepared for the Round Table on Voluntary Repatriation, International Institute of Humanitarian Law/ UNHCR, San Remo, Italy, 1985.

[22] Ahmed Karadawi. "The Problem of Urban Refugees in Sudan," in *Refugees: A Third World Dilemma*, ed. John Rogge (Totowa, New Jersey: Rowman and Littlefield, 1987), 115-129.

[23] D.J.Warner. "Voluntary Repatriation and the Meaning of Return to Home: A Critique of Liberal Mathematics." *Journal of Refugee Studies* 7, nos. 2/3(1994): 160-172. See Liisa Malkki. *Purity and Exile: Violence, Memory and National Cosmology among Hutu Refugees in Tanzania* (Chicago: University of Chicago Press, 1995) and her "Refugees and Exile: From 'Refugee Studies' to the National Order of Things." *Annual Review of Anthropology* 24(1995b): 495-523. Laura Hammond. "The Making of a Good Citizen in an Ethiopian Returnee Settlement," in *Coming Home? Refugees, Migrants and those who Stayed Behind*, ed. Lynellyn D. Long and E. Oxfeld (Philadelphia: University of Pennsylvania Press, 2004), 206-225.

[24] T. Allen and David Turton, "Introduction: In Search of Cool Ground", in *In Search of Cool Ground: War, Flight and Homecoming in Northeast Africa*, ed. T Allen, 1-22 (London: James Currey, 1996),10.

[25] Liisa Malkki, 1995, op.cit., 16.

[26] Gaim Kibreab, "Citizenship Rights and Repatriation of Refugees," *The International Migration Review* 37 (Spring 2003): 24-74.

[27] Warner, op.cit.

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homeland.[28] The asylum state perceives refugee status as a temporary status and encourages repatriation to countries of origin.[29] Often, refugees repatriate with little or no information on the changes in the "home" country.[30] 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 the International Refugee Regime: The Refugee Perspective

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.[31] During the 1980s, the literature focused on refugee resettlement and integration in the countries of asylum. [32] More recent studies on refugees have focused on the repatriation of refugees.[33] 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.

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 focuses on the aspects of reconstruction and rehabilitation among returnee-refugees in their countries of origin. Bascom[34] contends that the mass movements of human beings symbolize a changing world order. Rogge emphasizes the importance of the social transformation of refugees in exile as a contributory factor in their repatriation.[35] The fundamental preconditions for "voluntary repatriation," according to a minimalist interpretation, are the cessation of

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[28] This argument is based on findings from research conducted on Tamils and Chakma/ Jumma refugee-returnees in Vavuniya, Mannar in Sri Lanka, and Khagracharri in Bangladesh in 2002. 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."

[29] 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."

[30] 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.

[31] John R. Rogge. "A Geography of Refugees: Some Illustrations from Africa," *The Professional Geographer* 24, no. 2(1977): 186-193.

[32] See Barbara Harrell-Bond, "Humanitarianism in a Straightjacket," *African Affairs* 84, no. 344(1985): 3-13; John R. Rogge, *Too Many Too Long: Sudan's Twenty Year Refugee Dilemma. (*Totowa, N. J.: Rowman and Allenheld, 1985); Gaim Kibreab, "How durable are the 'durable solutions' to the problem of African refugees?" Overview paper for the Refugee Research Workshop, IDRC, Nairobi, 1987.

[33]John R. Rogge, and Joshua Akol, "Repatriation: Its role in Resolving Africa's Refugee Dilemma," *International Migration Review* 22, no. 2 (1989): 184-200.

[34] Jonathan Bascom, "The Dynamics of Refugee Repatriation: The Case of Eritrean in Eastern Sudan", in *Population Migration and the Changing World Order*, ed. W. T. Gould and A. M. Findlay (New York: John Wiley and Sons, 1994), 225-48.

[35] John R. Rogge, "Repatriation of refugees: A not-so-simple 'optimum' solution," Paper presented at the *Symposium on Social and Economic Aspects of Mass Voluntary Return of Refugees From One African Country to Another*, Harare, Zimbabwe, 1991.

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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. Kunz has identified two basic categories of refugees that are inclined to return: the "event-related refugees" and "majority-identified refugees."[36] 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. These challenges are particularly problematic in contexts where refugee movements have been spurred by civil conflict and over a longer period of exile. Also, most studies on refugees tend to be territorially-based[37], 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. Stein et. al.[38] 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 might mean 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 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.[39] The notion of voluntary repatriation operates within the boundaries of refugee law 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

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[36] Egon Kunz, "Exile and Resettlement: Refugee Theory," *International Migration Review* 15, no. 1(1981): 42-51.

[37] Gervase, Coles, "Approaching the Refugee Problem Today," in *Refugees and International Relations,* ed. Gil Loescher and Laila Monahan (New York: Oxford University Press, 1989).

[38] Barry Stein, Fred Cuny and Pat Reed, eds., *Refugee Repatriation During Conflict: A New Conventional Wisdom.* (Dallas: The Centre for the Study of Societies in Crisis, 1995).

[39] See UN Doc. A/Res/38/121 (1983).

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based on change in conditions in their country."[40] Elsewhere, the UNHCR describes voluntary repatriation as "a practical technique for affecting the safe and dignified return of refugees once the conditions that forced them to flee or to remain outside their country no longer exist."[41] 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 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."[42] 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.[43] 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.[44]

The "promotion" of voluntary repatriation in the Handbook to represent an evolution in the perspective of the UNHCR, with a move from an advocacy role that emphasized taking actions from the very outset of a refugee situation to prevent immediate return[45] 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."[46] The concept of "promotion" now involves "planning

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[40] UNHCR 1983 at 231.

[41] See UN Doc. A/AC.96/815 (1993).

[42] 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.

[43] 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).

[44] 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.

[45] UNHCR Handbook, *Voluntary Repatriation: International Protection* (1996). (Emphasis original).

[46] 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

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and organizing the voluntary repatriation of refugees under conditions which are conducive to their safe return and durable reintegration."[47] Since the mid-eighties, the UNHCR's right to initiate the organisation of repatriation was accepted and endorsed by the Executive Committee (and the General Assembly).[48]

The 1951 *Convention Relating to the Status of Refugees*[49] and the 1967 *Protocol*[50] stipulate 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. The UNHCR has adopted "a 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'"[51] 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.

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

My paper 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. 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

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their consequences, and it may be construed as such.

[47] UNHCR Handbook, *Voluntary Repatriation: International Protection*. (1996). Similarly in UNHCR Doc. 1993 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 voluntary repatriation on the other.

[48] 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 International Journal of Refugee Law,4: 541). Recognition of this perception was formulated as a prerequisite for the UNHCR's effectively extending international protection to refugees.

[49] "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).

[50] 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.

[51] James C. Hathaway, *The Law of Refugee Status* (Toronto: Butterworths, 1991).

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flow into India. In India too, the state-centric view dominated the citizenship rights, which was based on nationality.

The ethnic affinity between 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. 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.

While postcolonial societies have similar experiences, they have dissimilar outcomes. This paper 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[52], with an aim to protect territorial integrity. Tilly[53] 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[54], which impacted the process of state-building in decolonized societies. A strong state provides a strong institutional mechanism to diffuse or accommodate any divisive tendencies within predominantly pluralist societies. 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 the policies of imposition of "Islamization" in Bangladesh and "Sinhala Only" in Sri Lanka. This marginalization paved the way to a discourse of majoritarianism in these nations. In Bangladesh, these policies prevented the minority or indigenous people (Jumma) from being accepted and acknowledged within the structure of their formal constitutions.

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[52] See Joel Midgal, *Strong Societies and Weak States: State-society Relations and State Capabilities in the Third World* (Princeton, N.J.: Princeton University Press, 1988); Joel Migdal, *State in Society: Studying how States and Societies Transform and Constitute One Another* (Cambridge, U.K: Cambridge University Press, 2001); Charles Tilly, *The Formation of National States in Western Europe* (Princeton, N.J: Princeton University Press, 1975).

[53] Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In,* edited by Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (Cambridge: Cambridge University Press, 1985).

[54] David Holloway and Stephan J. Stedman, "Civil Wars and State-building in Africa and Eurasia," in *Beyond State Crisis? Postcolonial Africa and Post-Soviet Eurasia in Comparative Perspective*, ed. Mark R. Beissinger and Crawford Young, 161-189 (Washington DC: Woodrow Wilson Centre Press, 2002).

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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"[55]. 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[56] emphasize how the study of state-formation has permitted a deeper understanding of cultural processes, and regimes of power. Corrigan and Sayer 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."[57]  State-building has 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.

Previously, I have 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. 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. Furthermore, the postcolonial policies of Bangladesh and Sri Lanka created conditions of refugee flow into India. 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.

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[55] See George Steinmetz, "Introduction: Culture and the State," in *State / Culture State Formation after the Culture Turn*, ed. G. Steinmetz, 1-51 (London: Cornell University Press, 1999);  Thomas Blom Hansen and Finn Stepputat, eds. *States of Imagination: Ethnographic Explorations of the Postcolonial State*. (Durham N.C.: Duke University Press,  2001); Veena Das and D. Poole, eds.  *Anthropology in the Margins of the State*. (New Delhi: Oxford University Press, 2004).

[56] Krohn-Hansen and Knut G Nustad, ed. *State Formation: Anthropological Perspectives* (Pluto Press: London and Ann Arbor, 2005).

[57] Philip Corrigan and Derek Sayer, *The Great Arch: English State Formation As Cultural Revolution* (Oxford: Basil Blackwell, 1985).

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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 discusses the relationship between citizenship laws and their "explicit tie to…unique territoriality defined politics."[58] 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 paper 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. 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 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 be 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 feel threatened by the presence of a large number of refugees and fear the consequences 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 may 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. 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 decide 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

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[58] Herbst, *Op.Cit.*

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intermingling with the local populace. The refugees are never given a genuine opportunity to forge emotional links with the socio-cultural landscape of their asylum country. This segregated spatial arrangement reinforces refugees' imaginations of "home." Refugees residing in camp are a de-territorialized people[59] with deep associations with the physical location of campsite, which is an extension of the territory in the home country. 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.

## 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. 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. The complexities involved in the process of migration, displacement and repatriation thus need to be viewed in a way that transcends limited notions of citizenship and incorporates the demands of a globalising world.

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[59] 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).

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