

# BETTER MUST COME: CITIZENSHIP AND BELONGING AFTER STATELESSNESS

PATRICK BALAZO \*

*In light of the United Nations High Commissioner for Refugee’s global #IBELONG Campaign to end statelessness by 2024, this paper examines the benefits of citizenship acquisition among Sri Lanka’s previously stateless Up-Country Tamil population. From 1948 until 2003, the Up-Country Tamil population was stateless and excluded from the Sri Lankan political process, though with the 2003 grant of citizenship Sri Lanka was celebrated as an example of what it means to successfully end statelessness. Using a liberal theory of citizenship extended by the Rancièrian concept of dissensus, and based on qualitative interviews and questionnaire surveys conducted in Sri Lanka between July and August 2016, this paper identifies potential shortcomings of citizenship acquisition that clash with the promise of the #IBELONG Campaign and the narrative of Sri Lanka’s success in ending statelessness: a rural rights deficit and a shared absence of belonging despite the acquisition of citizenship.*

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\* Patrick Balazo is a Killam Scholar, recipient of the Canada Graduate Scholarship to Honour Nelson Mandela, and holds a Master of Arts in International Development Studies from Dalhousie University. An early career professional, Patrick has previously worked with the Canadian Centre on Statelessness and the Statelessness Network Asia Pacific. He can be reached at Patrick.Balazo@Dal.ca.

## I INTRODUCTION

With the introduction of the *Grant of Citizenship to Persons of Indian Origin Act No 35* by the Sri Lankan parliament in October 2003, Sri Lanka's long stateless Up-Country Tamil population was granted citizenship en masse.<sup>1</sup> Nevertheless, many in this community feel as though the acquisition of citizenship has been of little benefit given that enduring marginalisation and discrimination coalesce to preclude them from claiming the rights of citizenship pertaining to healthcare, education, employment and political participation.<sup>2</sup>

In view of the above and based on field research conducted in Sri Lanka's Central and Uva provinces to determine whether the acquisition of citizenship has provided for increased access and entitlement to four basic rights: healthcare, education, employment and political participation. This paper argues that for some previously stateless persons, recently acquired Sri Lankan citizenship is largely nominal, operating to mask the continued marginalisation of this population and deflect attention from an enduring human rights deficit believed to have been resolved. In so doing, this paper challenges the notion that statelessness 'can be resolved in a single moment',<sup>3</sup> and establishes that declarations of Sri Lanka's success in ending statelessness were made in haste.

To expand the scope of this paper, and place it within context of the United Nations High Commissioner for Refugees' ('UNHCR') ongoing #IBELONG Campaign to end statelessness by 2024, the field research also attempted to determine whether the acquisition of citizenship has provided previously stateless persons with an increased sense of belonging. With respect to Campaign content, the Campaign's inaugural report states that 'stateless people want nothing more than to come in from the cold — to belong'.<sup>4</sup> Yet, the legal resolution of statelessness may or may not translate into that which the stateless desire most — belonging — and it is the chasm between citizenship and belonging, or rather, the assumption that the former necessarily entails the latter, that this Campaign has left unaddressed. For this reason, the findings herein are used to assess whether citizenship has indeed provided previously stateless persons with an increased sense of belonging, and are instructive for the global #IBELONG Campaign to end statelessness by 2024.

This research is important for a number of reasons. First, it highlights the ongoing discrimination perpetrated on Sri Lanka's previously stateless Up-Country Tamils in terms of access and entitlement to healthcare, education,

<sup>1</sup> P P Sivapragasam, 'From Statelessness to Citizenship: Up-Country Tamils in Sri Lanka' in Brad K Blitz and Maureen Lynch (eds), *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Edward Elgar 2011); Rebecca Wolozin, 'Citizenship Issues and Issuing Citizenship: A Case Study of Sri Lanka's Citizenship Laws in a Global Context' (2014) 16(1) *Asian-Pacific Law & Policy Journal* 1; Mythri Jegathesan, 'Deficient Realities: Expertise and Uncertainty among Tea Plantation Workers in Sri Lanka' (2015) 39(3) *Dialectical Anthropology* 255; Christopher Neubert, 'Power, Everyday Control, and Emerging Resistance in Sri Lanka's Plantations' (2015) 24(4) *Contemporary South Asia* 360; Anasua Basu Ray Chaudhury, 'Ordeal of Citizenship: The Up-Country Tamils in Sri Lanka and India' in Paula Banerjee, Anasua Basu Ray Chaudhury and Atig Ghosh (eds), *The State of Being Stateless: An Account of South Asia* (Orient Blackswan 2016).

<sup>2</sup> Sivapragasam (n 1); Wolozin (n 1); Jegathesan (n 1); Chaudhury (n 1).

<sup>3</sup> United Nations High Commissioner for Refugees, *Special Report: Ending Statelessness* (Special Report, 4 November 2014) 20 <<https://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=546217229&query=Special%20Report:%20Ending%20Statelessness%20Within%2010%20Years>> ('UNHCR Special Report').

<sup>4</sup> *ibid* 16.

employment and political participation. In so doing, it establishes that the acquisition of citizenship does not necessarily provide the previously stateless with the benefits that formal recognition from the state is assumed to provide. With an eye to Sri Lanka specifically, this paper challenges the reigning narrative of ending statelessness in Sri Lanka as a tale of success. Of equal importance, on 4 November 2014, the UNHCR launched the ten-year global campaign to end statelessness, an issue that, according to the UNHCR, ‘can be resolved in a single moment’.<sup>5</sup> This paper tempers this claim and contributes a measure of nuance to the broader discussion of bringing about this phenomenon’s global resolution by establishing that there continues to exist a human rights deficit that ought to have been resolved through the acquisition of citizenship. As well, because the literature on how previously stateless groups view the acquisition of citizenship has yet to be fully developed, this paper contributes to a growing body of work that can be used to inform the broader global strategy devised to resolve statelessness. Finally, it is important to evaluate if or how citizenship has improved the lives of the previously stateless insofar as the #IBELONG Campaign risks delivering some 10 million<sup>6</sup> previously stateless persons further into the shadows upon the receipt of citizenship when the act of conferment is celebrated and memorialised at the expense of true substantive change.

This paper is structured as follows: the remainder of Part One outlines the conceptual framework, the UNHCR #IBELONG Campaign, and the methods used. With respect to the conceptual framework, the theory of liberal citizenship as advanced by Thomas Humphrey Marshall, whereby the struggle to attain individual rights is recognised as a core component of citizenship, is extended by the work of Ruth Lister and Evalina Dagnino to reimagine citizenship *as struggle*. To better establish theorizing citizenship *as struggle*, and thus restore agency to previously stateless persons who struggle to not only gain new rights, but give substance to those rights that have already been secured, the concept of dissensus as developed by French philosopher Jacques Rancière is explored and adopted to buttress the theory of citizenship used in this paper. Part II provides an overview of the historical experience of Sri Lanka’s Up-Country Tamil population from the nineteenth century forward. Part III provides an explanation of why access to healthcare, education, employment and political participation among Sri Lanka’s Up-Country Tamil population comprise the focus of this study, and presents with analysis the aggregate findings of the questionnaire surveys and interviews conducted to determine whether the acquisition of citizenship has provided for increased access and entitlement to healthcare, education, employment and political participation. Part IV provides a discussion of the major themes that arise out of said findings and analysis. Part V examines the major themes identified, draws a tentative conclusion from this research and what it can tell us about other previously stateless groups and ending statelessness generally, and makes a call for comparative research that can better grasp the situation of previously stateless persons beyond one context.

## A *Conceptual Framework*

The object of analysis animating this study is *the previously stateless person*, that is, the stateless person who has acquired citizenship in a given state and is

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<sup>5</sup> *ibid* 20.

<sup>6</sup> *ibid*.

henceforth recognised as a citizen of that state, thereby remedying for one that predicament confronting all stateless persons alike: the absence of any legal identity to which no formal recognition by *any* state is owed. For this reason, it is citizenship, meaning the ‘passive and active membership of individuals in a nation-state with universalistic rights and obligations at a specified level of equality’<sup>7</sup> that serves as the core concept in this study’s conceptual framework. Still, citizenship is an all too vast concept encompassing no less than twenty distinct theoretical approaches,<sup>8</sup> such that ‘the scope of this field now certainly goes well beyond the mastery of any scholar’.<sup>9</sup> However, because this study seeks to explore the degree to which the previously stateless person, or individual, has access to four specific rights, and given that ‘liberal theory, whether of citizenship or of anything else, begins with the individual’,<sup>10</sup> a liberal theory of citizenship has been adopted.

Even so, a theory of citizenship that champions liberal individual rights remains incomplete, for liberal theory views rights as guaranteed by the state and allocated to those under its authority wherein they are passively enjoyed by those fortunate enough to have been brought within the state’s fold.<sup>11</sup> In this way, rights are bestowed upon individuals from on high, with the individual portrayed as a passive recipient of rights as opposed to an active political agent engaged in the political process. Yet, as Marshall reminds us, citizenship ‘is stimulated both by the struggle to win those rights and by their enjoyment when won’.<sup>12</sup> It is the first half of this statement that is instructive, for Marshall acknowledges that citizenship rights are also secured from below through the struggle for their attainment,<sup>13</sup> and in so doing tacitly suggests that these rights are not entirely the product of state beneficence but can result from citizen engagement. In contributing to the notion of struggle advanced by Marshall,<sup>14</sup> Lister states that the content of citizenship rights is never fixed but remains the object of political struggle, and that as an ideal, ‘citizenship provides a potent weapon in the hands of disadvantaged and oppressed groups of insiders’ to not only gain new rights, but give substance to those rights that have already been secured.<sup>15</sup> Thus, citizenship can also be conceived of *as struggle*, as a site of contestation or negotiation, as ‘the invention and creation of new rights, which emerge from specific struggles and their concrete practices’<sup>16</sup> given that those excluded from their entitlement to the rights

7 Thomas Janoski and Brian Gran, ‘Political Citizenship: Foundation of Rights’ in Engin Fahri Isin and Bryan S Turner (eds), *Handbook of Citizenship Studies* (Sage 2002) 13.

8 Engin Fahri Isin and Bryan S Turner, *Handbook of Citizenship Studies* (Sage 2002); Margaret R Somers, *Genealogies of Citizenship: Markets, Statelessness, and the Right to Have Rights* (Cambridge University Press 2008).

9 Isin and Turner (n 8) 2.

10 Peter H Schuck, ‘Liberal Citizenship’ in Engin Fahri Isin and Bryan S Turner (eds), *Handbook of Citizenship Studies* (Sage 2002) 132.

11 Michael Walzer, ‘Citizenship’ in Terence Ball, James Farr and Russel L Hanson (eds), *Political Innovation and Conceptual Change* (Cambridge University Press 1989); Keith Faulks, *Citizenship* (Routledge 2000); Isin and Turner (n 8).

12 Thomas Humphrey Marshall, *Citizenship and Social Class, and Other Essays* (Cambridge University Press 1950) 41.

13 *ibid.*

14 *ibid.*

15 Ruth Lister, *Citizenship: Feminist Perspectives* (New York University Press 2003) 5.

16 Evalina Dagnino, ‘Culture, Citizenship and Democracy: Changing Discourses and Practices of the Latin American Left’ in Sonia E Alvarez, Evalina Dagnino and Arturo Escobar (eds), *Cultures of Politics, Politics of Cultures: Re-Visioning Latin American Social Movements* (Westview Press 1998) 50 (emphasis altered).

they are guaranteed by virtue of their citizenship organise and mobilise to demand the rights they are entitled to.<sup>17</sup> Of course, in no struggle is victory assured, and each struggle will be shaped by its respective cultural, political and historical context,<sup>18</sup> but conceiving of citizenship *as struggle* completes this gap in liberal theory and does so without displacing the purchase of individual rights.

To better establish theorising citizenship *as struggle*, and thus restore agency to previously stateless persons who struggle to not only gain new rights, but give substance to those rights that have already been secured, the concept of dissensus as developed by French philosopher Jacques Rancière is adopted to buttress the theory of citizenship used in this study. By dissensus, Rancière means ‘a division put in the “common sense”: a dispute about what is given, about the frame within which we see something as given’.<sup>19</sup> As Rancière argues, rights can be said to belong to individuals ‘when they can do something with them to construct a dissensus against the denial of rights they suffer’, that is, to dispute the social consensus that sees one’s rights denied.<sup>20</sup> This means that there is no binary of *having rights* and *not having rights* whereby individuals passively accept whether their rights are observed or not, but that individuals secure the rights that are theirs through their struggle to first show that they have been denied the very rights they are owed, whereupon those same rights that have been denied are then enacted once secured. However, this is only possible if, as Rancière suggests, we move beyond viewing rights as being possessed by a definite subject.<sup>21</sup>

According to Rancière,<sup>22</sup> ‘the subject of rights is the... process of subjectivisation, that bridges the interval between two forms of the existence of those rights’. The first form is written rights; the ‘inscriptions of the community as free and equal’.<sup>23</sup> The second form are ‘the rights of those who make something of that inscription, who decide not only to “use” their rights but also to build such and such a case for the verification of the power of the inscription’.<sup>24</sup> However, it must be noted that the inscription affords moral justification for the subject to seek verification, for the mere existence of the inscription allows the subject to assume equality as she proceeds. Though the construction of a dissensus against the denial of rights may be met with charges of recalcitrance, the subject is in fact proceeding ‘from the point of view of equality, asserting equality, assuming equality as a given, working out from equality, trying to see how productive it can be and thus maximizing all possible liberty and equality’<sup>25</sup> when disputing the given so as to verify the power of the inscription. In this way, the subject of rights is not a definite

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17 Marshall (n 12); Hannah Arendt, *The Origins of Totalitarianism* (Harcourt Brace & Company 1973); Walzer (n 11); Naila Kabeer, *Inclusive Citizenship: Meanings & Expressions* (Zed Books 2004); Celestine Nyamu-Musembi, ‘Towards an Actor-Oriented Perspective on Human Rights’ in Naila Kabeer (ed), *Inclusive Citizenship: Meanings & Expressions* (Zed Books 2004); Margaret Walton-Roberts, ‘Conclusion: Slipper Citizenship and Retrenching Rights’ in Rhoda E Howard-Hassman and Margaret Walton-Roberts (eds), *The Human Right to Citizenship: A Slippery Concept* (University of Pennsylvania Press 2015).

18 Jack M Barbalet, *Citizenship: Rights, Struggle, and Class Inequality* (University of Minnesota Press 1988); Lister (n 15).

19 Jacques Rancière, ‘Who is the Subject of the Rights of Man?’ (2004) 103(1–2) *The South Atlantic Quarterly* 297.

20 *ibid* 305–6.

21 *ibid*.

22 *ibid* 302.

23 *ibid* 302.

24 *ibid* 303.

25 Jacques Rancière, *On the Shores of Politics* (Verso 1995) 51–52.

rights holder but the actor who inhabits the interstitial field of contestation created by pitting the inscription of rights against the awaited verification of said rights as premised on equality. If the rights that are under contestation are not verified, it shall be established that the subject in question does not have the rights she has, thereby evincing ‘the contradictions of a social order which presupposes equality but simultaneously disavows it’.<sup>26</sup> Conversely, the verification of said rights shall establish that the subject has the rights she has not, whereby dissensus sees the prevailing social consensus — the given — reimagined to include as free and equal the once excluded, with the rights that were heretofore denied now free to be claimed and enacted.

In sum, dissensus is a conceptual tool that can be deployed to intervene ‘into always particular situations, specific instances in which ideas are “at work”’<sup>27</sup> to restore agency to disadvantaged and oppressed groups of insiders who struggle to have their rights respected, protected and fulfilled. For this very reason, dissensus can be applied to all manner of social settings marked by tension, for it is a conceptual tool that is necessarily malleable, and when harnessed accordingly, can be attuned to both account for and yield to the specificities of a given context, including that of Up-Country Sri Lanka.

The third component of the conceptual framework used in this study is a human rights analysis grounded in the notions of access and entitlement given that such an analysis reveals if this population’s rights to healthcare, education, employment and political participation are fulfilled, and if certain segments of this population are better able to secure the rights they have been guaranteed more so than others. This allows for an assessment of whether recently ordained citizens have either access or entitlement to the human rights that are said to be theirs by virtue of their citizenship, it reveals who among this population has secured said access or entitlement, and allows those incapable of seizing their rights to emerge in the analysis. A normative understanding of human rights is henceforth adopted because it is the concept of human rights that animates discussions and appraisals of injustice at the international scale, and for which an expansive body of international law has been developed. Further, Sri Lanka’s membership in the United Nations is enough to warrant an investigation of their human rights practices by contrasting how things are with how they *ought* to be.

### B *The UNHCR #IBELONG Campaign*

In summary, the *#IBELONG* Campaign aims to ‘resolve existing situations of statelessness, prevent new cases of statelessness from emerging, and better identify and protect stateless persons’ by 2024.<sup>28</sup> To this end, a *Global Action Plan* has been designed to meet this goal, and is comprised of 10 key ‘Actions’: resolve existing major situations of statelessness; ensure no child is born stateless; remove gender discrimination from nationality laws; prevent denial, loss or deprivation of nationality on discriminatory grounds; prevent statelessness in cases of state succession; grant protection status to stateless migrants and facilitate their

<sup>26</sup> Jacques Rancière, *Dissensus: On Politics and Aesthetics* (Continuum 2010) 9.

<sup>27</sup> Rancière, ‘Who is the Subject of the Rights of Man?’ (n 19); Paul Bowman and Richard Stamp, *Reading Rancière: Critical Dissensus* (Continuum 2011) xii.

<sup>28</sup> United Nations High Commissioner for Refugees, *Global Action Plan to End Statelessness* (Special Report, 4 November 2014) <<https://www.unhcr.org/en-au/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html>> (*‘Global Action Plan’*).

naturalisation; ensure birth registration for the prevention of statelessness; issue nationality documentation to those with entitlement to it; accede to the UN *Statelessness Conventions*;<sup>29</sup> and improve quantitative and qualitative data on stateless populations.<sup>30</sup> Not only are these ‘Actions’ guided by an eight-part overall strategy, each Action has milestones to be reached by 2017 and 2020, and an ultimate goal to be met by 2024. In support of these measures, the UNHCR’s budget for resolving statelessness was quintupled between 2009 and 2014, a special mechanism was created to provide increased funding for particularly promising and important projects and more than 20 specialists have been deployed globally to work with governments and relevant organisations to address this issue.<sup>31</sup> To accomplish the Actions, countries are encouraged to develop and implement *National Action Plans* that ‘set out detailed strategies to complete selected Actions and indicate detailed country-level goals and milestones’, with progress on these *Plans* assessed by the UNHCR in two-year intervals.<sup>32</sup> The Campaign is further complemented by quarterly Campaign updates, a series of ‘Good Practices Papers’ to aid governments, civil society, the UNHCR and other international organisations implement the *Global Action Plan*, and an *Open Letter to End Statelessness* on the Campaign’s website.<sup>33</sup> With respect to Campaign content, the Campaign’s inaugural report states that ‘stateless people want nothing more than to come in from the cold — to belong’,<sup>34</sup> and although ‘it is unclear how many of the humanitarian emergencies [the UNHCR is] working in today can be resolved in the near future’,<sup>35</sup> the Campaign is guided by the belief that statelessness can be resolved for at least 10 million people who are currently without a nationality within 10 years. In fact, the #IBELONG Campaign claims that statelessness ‘can be resolved in a single moment’.<sup>36</sup> Yet, the legal resolution of statelessness may or may not translate into that which the stateless desire most — belonging — and it is the chasm between citizenship and belonging, or rather, the assumption that the former necessarily entails the latter, that this Campaign has left unaddressed.

Recent events in Sri Lanka present a unique opportunity to appraise citizenship and belonging after statelessness, for the 2003 *Grant of Citizenship to Persons of Indian Origin Act No 35* and the subsequent *Grant of Citizenship to Persons of Indian Origin (Amendment) Act No 6* of 2009 saw the country’s long stateless Up-Country Tamil population acquire citizenship en masse.<sup>37</sup> Not unlike the optimism expressed in the #IBELONG Campaign, these developments have been hailed as

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<sup>29</sup> *Convention Relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960); *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975).

<sup>30</sup> *Global Action Plan* (n 28).

<sup>31</sup> *ibid*

<sup>32</sup> *ibid* 26.

<sup>33</sup> *ibid*; United Nations High Commissioner for Refugees, *The Campaign to End Statelessness, January 2015 Update* (Campaign Report, January 2015) <<https://www.refworld.org/docid/54cb79b04.html>> (‘2015 Campaign Update’); United Nations High Commissioner for Refugees, ‘IBELONG’ (Webpage) <<http://www.unhcr.org/ibelong/>>.

<sup>34</sup> *UNHCR Special Report* (n 3) 16.

<sup>35</sup> *2015 Campaign Update* (n 33) 3.

<sup>36</sup> *UNHCR Special Report* (n 3) 20.

<sup>37</sup> Yogeswary Vijayapalan, *Endless Inequality: The Rights of the Plantation Tamils in Sri Lanka* (Ohm Books 2014).

a success, and Sri Lanka has been heralded as a shining example of what it means to end statelessness.<sup>38</sup> However, before any interrogation of citizenship and belonging after statelessness can be pursued, an explanation of the methods used in this study along with an understanding of the Sri Lankan context is in order.

### C Methods

Four plantations were visited for the purpose of this study, two of which were urban (Nanu Oya and Nuwara Eliya) and another two rural (Passara and Dickoya). The urban plantations were within the immediate proximity of an urban centre, while rural plantations were located at least forty-five minutes by transport to the closest urban centre. The decision to visit these four plantations was largely informed by the author's local research team in Sri Lanka given that the research team had already established working relationships with both plantation management and the communities living on these plantations. Still, the author ensured that two urban and two rural plantations were visited to gauge if or how geography impacts the substance of citizenship. To ensure gender balance, the number of female and male participants was pre-determined. Because plantation populations are relatively homogenous and geographically concentrated, participants were selected at random.<sup>39</sup> Prospective participants were approached by the author and the research assistant during their break time, when randomly encountered while walking through plantation grounds, and in the shared public spaces adjacent to plantation living quarters and asked if they wished to participate in this study. To secure the verbal consent of each participant, each prospective participant was read a consent form prior partaking in this study. As well, each participant was provided a written, Tamil language copy of the questions they were asked. The names the plantations visited have been altered to protect the identity of all who have agreed to partake in this study.

In sum, semi-structured interviews,<sup>40</sup> questionnaire surveys<sup>41</sup> and a human rights analysis constitute the research methods used in this study. Semi-structured interviews were chosen to ensure that I adhered to the interview schedule devised, to make certain that the issue of access and entitlement to the four rights (healthcare, education, employment, political participation) that constitute the focus of this study were addressed, and to provide interviewees with the freedom to develop and voice their own thoughts and concerns about such matters.<sup>42</sup> As well, this approach enabled me to tailor questions to the interviewee and provide me with the freedom to move on to other questions if it appeared that the interviewee was uncomfortable with particular subject matter, or when a question

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<sup>38</sup> United Nations High Commissioner for Refugees, *Citizenship for All, Focus on Protection* (Report, 2004); Sulakshani Perera, 'Sri Lankan Success Story' (2007) 147 *Refugees Magazine* 20; Chetani Priyanga Wijetunga, 'Feature: Sri Lanka Makes Citizens out of Stateless Tea Pickers', *United Nations High Commissioner for Refugees* (online, 7 October 2004) <<http://www.unhcr.org/news/latest/2004/10/416564cd4/feature-sri-lanka-makes-citizens-stateless-tea-pickers.html>>; United Nations High Commissioner for Refugees, *Good Practices Paper — Action 1: Resolving Existing Major Situations of Statelessness* (Good Practice Paper, 23 February 2015) <<http://www.refworld.org/docid/54e75a244.html>>.

<sup>39</sup> David Simon, 'Your Questions Answered? Conducting Questionnaire Surveys' in Vandana Desai and Robert B Potter (eds), *Doing Development* (Sage 2006) 163, 169.

<sup>40</sup> See Appendix A.

<sup>41</sup> See Appendix B.

<sup>42</sup> Katie Willis, 'Interviewing' in Vandana Desai and Robert B Potter (eds), *Doing Development* (Sage 2006) 144.



had been rendered redundant based on previous responses.<sup>43</sup> The interviewees selected for this study were fifteen women and fifteen men, all of whom identified as Up-Country Tamil.

Structured questionnaire surveys, consisting of seven straightforward ‘yes, no, no change’ questions designed to gauge whether people personally believed that access and entitlement to the four human rights indicators used in this study had increased since 2003 were conducted in each location to ascertain a more expansive range of statistical information from a representative sample of this population. The choice to proceed with such a limited line of questioning was made in order to capture the experiences of as many people as possible within a limited period of inquiry. The questionnaire survey respondents selected for this study were fifty women and fifty men, all of whom identified as Up-Country Tamil. The combination of quantitative and qualitative methods was deployed so as to put a human face on the statistics generated by the structured questionnaire surveys. Lastly, to overcome any language barrier between myself and those that had agreed to partake, I was accompanied by a research assistant fluent in both Tamil and English when conducting these interviews and surveys, all of which were undertaken between 25 July and 25 August 2016.

The human rights analysis was employed to analyse the data generated from the above research methods for the purpose of identifying the extent to which access and entitlement to the four human rights that constitute the focus of this study had increased, and whether particular segments of this population had an increased rights entitlement in the years following the acquisition of citizenship as compared with others. Beyond these methods, a mix of primary documents, secondary research sources, and news media provided the data needed to complete this project.

## II THE UP-COUNTRY TAMILS AND SRI LANKA — A HISTORICAL OVERVIEW

### A *The Colonial Period*

With the 25 March 1802 *Treaty of Amiens*,<sup>44</sup> Ceylon was confirmed as a British Crown colony.<sup>45</sup> The 1823 Colebrook-Cameron Commission enacted by the Colonial Government put forth a number of recommendations pertaining to the administration of the island, and with the establishment of the first Legislative Council in 1833 a unitary state structure had been emplaced.<sup>46</sup> Mirroring these developments was the view from the Colonial Office that the large-scale cultivation of commercial crops presented as ‘an important option for Ceylon’,<sup>47</sup> and plantation agriculture was soon introduced to the island’s central region.<sup>48</sup> The

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<sup>43</sup> *ibid* 146.

<sup>44</sup> For purposes of historical accuracy, Ceylon will henceforth be used when speaking of the pre-1972 period, whereas Sri Lanka will be used when speaking of the post-1972 period after the country’s name had been officially changed from Ceylon to Sri Lanka.

<sup>45</sup> Vijayapalan, *Endless Inequality* (n 37).

<sup>46</sup> Valli Kanapathipillai, *Citizenship and Statelessness in Sri Lanka: The Case of the Tamil Estate Workers* (Anthem Press 2009); Vijayapalan (n 37).

<sup>47</sup> Kumari Jayawardena and Rachel Kurian, *Class, Patriarchy and Ethnicity on Sri Lankan Plantations: Two Centuries of Power and Protest* (Orient Blackswan 2015) 18.

<sup>48</sup> Yvonne Fries and Thomas Bibin, *The Undesirables: The Expatriation of the Tamil People ‘of Recent Indian Origin’ from the Plantations in Sri Lanka to India* (K P Bagchi & Company 1984); Sivapragasam (n 1).

growing of coffee in Ceylon for export had been experimented with as early as 1824, and due to a decline in the export of West Indian coffee to Britain resulting from the 1833 abolition of slavery in the colonies along with a reduction on the duty on Ceylon coffee in 1835,<sup>49</sup> the potential promise of commercial coffee production was pursued by British planters with alacrity. Having reached record exports exceeding 50,802,345 kilograms per year by 1870,<sup>50</sup> king coffee had assumed the throne of plantation agriculture in Ceylon by the mid-nineteenth century.

Many authors state that planters responded to this demand by first employing indigenous Sinhala labour.<sup>51</sup> However, the spread of plantation agriculture is believed to have done little to interrupt land ties among the Sinhala peasantry, for traditional economic activities were preferred over the harsh labour regimes encountered on plantations.<sup>52</sup> The failure to secure Sinhala labour prompted planters to look to southern India, specifically what was then known as the Madras Presidency and now as the Indian state of Tamil Nadu, to recruit the requisite labour supply.<sup>53</sup> The systematic recruitment of labour is said to have begun in 1839,<sup>54</sup> and various population figures chronicling the nineteenth century increase of the Up-Country Tamil population are provided in the literature.<sup>55</sup> Further, there is near-consensus in the literature that migration was circular until *hemileia vastatrix* devastated the island's coffee plantations in the 1880s,<sup>56</sup> causing planters to pursue the commercial cultivation of tea which required a resident rather than seasonal labour force.<sup>57</sup>

Yet, as Patrick Peebles argues, misrepresentation and inaccuracy plague the conventional historical account presented above.<sup>58</sup> First, Peebles states 'that there is little evidence that planters attempted and failed to hire a Sinhalese plantation labour force', and that '[i]t is only after a homogeneously Tamil labour force emerged that planters emphasised the unsuitability of the Sinhalese for plantation work'.<sup>59</sup> Further, 1839 is the year the Government of Ceylon began counting the number of travellers moving between India and Ceylon, not the year that recruitment began. In fact, the recruitment in India of labour was outlawed between 1839 and 1847, meaning that the plantation labour force created in the 1830s and 1840s was comprised of Tamil labourers *already* in Ceylon who had relocated of their own volition, not to mention that 'the presence of people of south

<sup>49</sup> S Nadesan, *A History of the Up-Country Tamil People in Sri Lanka* (Ranco 1993) 17.

<sup>50</sup> S Rajaratnam, 'The Growth of Plantation Agriculture in Ceylon, 1886–1931' (1961) 4(1) *Ceylon Journal of Historical and Social Studies* 1.

<sup>51</sup> S M Thomas, *A History of the Tamil Church Mission: A Centenary Volume 1854–1953* (Mortlake 1954); M W Roberts, 'Indian Estate Labour in Ceylon During the Coffee Period, (1830–1880)' (1966) 3(2) *The Indian Economic & Social History Review* 101; Fries and Bibin (n 48); Nadesan (n 49); Kanapathipillai (n 46); A P Kanapathypillai, *The Epic of Tea: Politics in the Plantations of Sri Lanka* (Social Scientists' Association 2011); Jayarwardena and Kurian (n 47).

<sup>52</sup> Kanapathipillai (n 46); Jayarwardena and Kurian (n 47).

<sup>53</sup> Jayarwardena and Kurian (n 47).

<sup>54</sup> Nadesan (n 49); Sivapragasam (n 1); Vijayapalan (n 37).

<sup>55</sup> Fries and Bibin (n 48); Kanapathypillai (n 46); A Lawrence, *Malayaha Tamils, Power Sharing and Local Democracy in Sri Lanka* (Social Scientists' Association 2011); Vijayapalan (n 37).

<sup>56</sup> Vijayapalan (n 37).

<sup>57</sup> Roberts (n 51); Fries and Bibin (n 48); Nadesan (n 49); Kanapathipillai (n 46); Kanapathypillai (n 51); Lawrence (n 55); Jayarwardena and Kurian (n 47).

<sup>58</sup> Patrick Peebles, *The Plantation Tamils of Ceylon* (Leicester University Press 2001).

<sup>59</sup> *ibid* 30.

Indian origin is a continuous feature of the island's history'<sup>60</sup> and not a mid-nineteenth century aberration. Second, attempts to quantify the nineteenth century population of what would one day be the Up-Country Tamil community are largely fruitless, for not only did the actual number of labourers go unrecorded until 1868, the available population figures have been determined by analysing net passenger traffic between India and Ceylon. Lastly, as both Peebles and Daniel Bass argue,<sup>61</sup> the rapid expansion and scale of Ceylon's coffee plantations before 1885, and the attendant maintenance thereof, would have required a permanent labour force during the coffee era, suggesting that this community was resident long before the final decades of the nineteenth century. Ultimately, Peebles work demonstrates that there was a resident (Up-Country) Tamil population in Ceylon's central region from at least the 1830s onward, that calls of how many or how few of these people were resident are altogether trivial and that the charge of circulatory migration denies the nineteenth century presence in Ceylon of this community and serves only to emphasise their collective foreignness.<sup>62</sup>

Nevertheless, the nineteenth century was a period of intermittent drought, famine, debt, landlessness and increasing population pressures in the Madras Presidency whereby peasants had little option but to choose between debt bondage and starvation in Madras or work on Ceylon's coffee or tea plantations to survive, inducing many to relocate to Ceylon either independently or through recruitment.<sup>63</sup>

The harsh labour regimes that awaited the Up-Country Tamil labour force, coupled with the deployment of surveillance, soft social mechanisms, legal and extra-legal and economic and extra-economic coercion<sup>64</sup> on the part of planters gave rise to a method of labour control on Ceylonese plantations, not unlike that of the earlier slave plantations of the New World.<sup>65</sup> These methods of labour control also meant that the Up-Country Tamil experience as one of captive labour on enclave-like tea estates had crystallised before the dawn of the twentieth century.

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<sup>60</sup> *ibid* 24.

<sup>61</sup> *ibid*; Daniel Bass, *Everyday Ethnicity in Sri Lanka: Up-Country Tamil Identity Politics* (Social Scientists' Association 2015).

<sup>62</sup> Peebles (n 58).

<sup>63</sup> Roberts (n 51); Nadesan (n 49); Vijayapalan (n 37); Jayarwardena and Kurian (n 47).

<sup>64</sup> Soft social mechanisms included the caste hierarchy quickly established on plantations, whereby the *kangany* (Tamil word for supervisor) was of a higher caste than the labourers, and thus able to wield undue power and control over the labour force. Legal and extra-legal coercion included the *Service Contracts Ordinance No 5* of 1841 and the *Master and Servants Ordinance No 11* of 1865 which together criminalised a leave of employment short of one month's notice or without reasonable cause, drunkenness, disobedience, insolence and other misconduct however loosely defined. Also, the Tundu system employed on plantations until 1921 which required workers to obtain a discharge ticket from their employer before they could either leave the plantation or seek employment on another plantation falls within the scope of extra-legal coercion. Economic and extra-economic coercion includes the advances that planters gave to *kanganies* to cover the travel expenses of the labourers they recruited from southern India, which were then incurred by individual labourers meaning that each labourer began work life on a plantation deeply indebted to his or her *kangany*. As well, the authority of the *kangany* over the workers and his role of overseeing all the financial affairs of his labour gang gave rise to an epidemic of arrears in wages, non-payment, fraud and extortion, all of which falls within the scope of extra-economic coercion.

<sup>65</sup> N Shanmugaratnam, *Privatisation of Tea Plantations: The Challenge of Reforming Production Relations in Sri Lanka, an Institutional Historical Perspective* (Social Scientists' Association 1997); Peebles (n 58); Jayarwardena and Kurian (n 47).

## B *After Independence*

On 4 February 1948, roughly a century after the population that would come to be known as the Up-Country Tamils had emerged in Ceylon, an independent Ceylon came into being.<sup>66</sup> Three years prior in talks between the country's future Prime Minister Dudley Shelton Senanayake and the British government, it had been agreed that the question of citizenship would be determined by the government of an independent Ceylon,<sup>67</sup> and on 15 November 1948 the *Citizenship Act No 18* ('1948 Act') was enacted.<sup>68</sup> Although the colonial era *Soulbury Constitution* had stipulated 'that no law could be enacted, that was discriminatory to one community, or that is not applicable to other communities',<sup>69</sup> the 1948 Act targeted exclusively the Up-Country Tamil community insofar as citizenship by descent was automatically granted to the country's Sinhala, Ceylon Tamil, Ceylon Moor, Burgher and Malay communities while Up-Country Tamils were required to prove descent.<sup>70</sup> Specifically, citizenship by descent would be conferred if one could prove that his or her father, or paternal grandfather and great-grandfather had been born in Ceylon, yet birth registration had only been undertaken as of 1895 meaning that only few persons in Ceylon could provide their father's birth certificate, let alone that of their grandfather or great-grandfather.<sup>71</sup> Failing this, citizenship by registration could be sought, though the costs involved, coupled with the need for proficiency in English and Sinhala to complete the process, made this a burdensome if not unrealistic option for a largely impoverished and illiterate demographic.<sup>72</sup> In all, approximately 800,000 Up-Country Tamils were denied citizenship under the operation of this Act.<sup>73</sup>

Several attempts to resolve the issue of statelessness were pursued in both the twentieth and twenty-first centuries, and are listed here in chronological order: the *Indo-Ceylon Agreement of 1954 (Nehru-Kotelawala Pact)*;<sup>74</sup> the *Indo-Ceylon Agreement of 1964 (Sirima-Shastri Pact)*;<sup>75</sup> the *Indo-Ceylon Agreement of 1974*;<sup>76</sup> the *Grant of Citizenship to Stateless Persons 1986*;<sup>77</sup> and the *Grant of Citizenship to Persons of Indian Origin Act of 2003*.<sup>78</sup>

By 2003, there remained a population of 84,000 persons plus their natural increase, who were legally resident in Sri Lanka but without the rights accrued to a citizen of Sri Lanka.<sup>79</sup> This de facto stateless Up-Country Tamil population prompted Parliament to enact the *Grant of Citizenship to Persons of Indian Origin*

<sup>66</sup> Ishtiaq Ahmed, *State, Nation and Ethnicity in Contemporary South Asia* (Pinter 1996).

<sup>67</sup> Kanapathypillai (n 51).

<sup>68</sup> Vijayapalan (n 37).

<sup>69</sup> P P Devaraj, 'From Exclusion to Incorporation: Tangled & Torturous Experiences of the Indian Origin Tamils' in Gnana Moonesinghe (ed), *Challenges for Nation Building: Priorities for Sustainability and Inclusivity* (Shramaya 2010) 101.

<sup>70</sup> Fries and Bibin (n 48); Lawrence (n 55); Jayarwardena and Kurian (n 47).

<sup>71</sup> Jayarwardena and Kurian (n 47).

<sup>72</sup> Fries and Bibin (n 47); Vijayapalan (n 37).

<sup>73</sup> Vijayapalan (n 37).

<sup>74</sup> *Indo-Ceylon Agreement (Nehru-Kotelawala Pact)*, India-Sri Lanka, signed 18 January 1954.

<sup>75</sup> *Indo-Ceylon Agreement (Sirima-Shastri Pact)*, India-Sri Lanka, signed 30 October 1964.

<sup>76</sup> *Indo-Ceylon Agreement*, India-Sri Lanka, signed 28 June 1974.

<sup>77</sup> *Grant of Citizenship to Stateless Persons Act, No 5 of 1986*, 21 February 1987 (Sri Lanka).

<sup>78</sup> *Grant of Citizenship to Persons of Indian Origin Act of 2003*, 23 September 2003, Bill No 153 (Sri Lanka).

<sup>79</sup> Vijayapalan (n 37).

*Act No 35* on 11 November 2003 to extend citizenship to this very group.<sup>80</sup> Even so, some six years on there remained a resident de facto stateless population, so an 18 February 2009 amendment was enacted providing for citizenship to be acquired by operation of law, and with that the issue of statelessness among the Up-Country Tamils of Sri Lanka had been brought to a close.<sup>81</sup> Though the acquisition of citizenship did not necessarily remedy the many rights deficits akin to being stateless, and while it would be absurd to in any way condemn this landmark development, caution must guide any celebration of these matters.

### III FINDINGS AND ANALYSIS

In the following Part, an explanation of why the four human rights explored in this study: the right to healthcare, education, employment and political participation is provided. Second, the aggregate findings of the questionnaire surveys and interviews conducted to determine whether the acquisition of citizenship among Sri Lanka's Up-Country Tamil population has brought with it substantive benefits by way of increased access and entitlement to healthcare, education, employment and political participation are presented. Following from this, a brief discussion of belonging is provided and the findings of the few questions designed to capture whether those who partook in this study conceive of themselves as belonging to Sri Lanka are presented. By providing evidence that some previously stateless persons are still yet 'to come in from the cold — to belong',<sup>82</sup> the findings presented below challenge the reigning narrative of ending statelessness in Sri Lanka as a tale of success and are instructive for the global #IBELONG Campaign to end statelessness by 2024.

#### A *Four Human Rights: Healthcare, Education, Employment and Political Participation*

The four human rights that constitute the focus of this study — the rights to healthcare, education, employment and political participation — were chosen for a number of reasons. To begin, in core #IBELONG Campaign content, an inability to access healthcare, education and employment is repeatedly identified as the foremost reason as to why statelessness is a global human rights concern.<sup>83</sup> Such emphasis is reason enough to focus on these three rights. Yet when we look to Sri Lanka's previously stateless Up-Country Tamil population, we quickly learn that healthcare and education have long been provided by plantation ownership, not to mention that labour on the country's many tea plantations characterises this population's collective experience. Though this may suggest that there is no reason to explore access to healthcare, education and employment in the wake of citizenship, when placed in context, such access becomes of immediate concern.

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<sup>80</sup> *ibid.*

<sup>81</sup> *ibid.*

<sup>82</sup> *UNHCR Special Report* (n 3) 16.

<sup>83</sup> *ibid.*; *Global Action Plan* (n 28); United Nations High Commissioner for Refugees, *I Am Here, I Belong: The Urgent Need to End Childhood Statelessness* (Report, 3 November 2015) <[https://www.unhcr.org/ibelong/wp-content/uploads/2015-10-StatelessReport\\_ENG15-web.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/2015-10-StatelessReport_ENG15-web.pdf)>; United Nations High Commissioner for Refugees, *'This is Our Home': Stateless Minorities and their Search for Citizenship* (Report, 3 November 2017) <[https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR\\_EN2\\_2017IBELONG\\_Report\\_ePub.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR_EN2_2017IBELONG_Report_ePub.pdf)>.

As compared with all other demographic groups, it is Sri Lanka's Up-Country Tamil population that registers the poorest health outcomes.<sup>84</sup> However, this state of affairs is largely the result of this population having to rely on healthcare provided by one's respective estate, that is, healthcare provided by the private, for-profit tea plantation that one happens to either work for or reside within. Of particular note, this medical scheme is not integrated into the national health system, and because of this inferior healthcare services prevail.<sup>85</sup> The medical care that is available on estates is provided by Estate Medical Assistants employed by plantation management who often have no medical training.<sup>86</sup>

Similarly, as compared with all other demographic groups, it is again Sri Lanka's Up-Country Tamil population that registers the poorest educational outcomes.<sup>87</sup> This situation is largely attributable to this population's continued reliance on estate schools, an arrangement unique to the Up-Country. Though estate schools were brought under the purview of the national education system between 1977 and 1980,<sup>88</sup> prior to which they were the responsibility of estate management, many are characterised by the Ministry of Education as having a lack of safe buildings, well-equipped classrooms and appropriate learning materials.<sup>89</sup> Further, plantation areas are disadvantaged with respect to secondary education, with 68.5 per cent of schools only offering primary instruction, and where secondary education is available it is marked by an overall paucity of teachers capable of teaching science and mathematics.<sup>90</sup>

When compared with both the urban and rural sectors of the Sri Lankan labour force, it is the estate sector that registers the highest labour force participation rate at 63.1 per cent, whereas the urban and rural sectors register 48.6 and 54.4 per cent respectively.<sup>91</sup> Moreover, it is the estate sector that again registers the highest employment to population ratio at 60.9 per cent, with the urban and rural sectors trailing at 46.4 and 51.8 per cent respectively.<sup>92</sup> Despite these figures, from the years 1995–96 through to 2012, the estate sector has consistently registered the highest poverty headcount in the Household Income and Expenditure Survey, and when compared with all other demographic groups, it is the Up-Country Tamil population that registers the smallest middle class at 10 per cent of its population, with Sri Lanka's Sinhala demographic leading at 22 per cent.<sup>93</sup> Further, according

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<sup>84</sup> United Nations Development Program, *Sri Lanka Human Development Report 2012: Bridging Regional Disparities for Human Development* (Report, 2012) <<https://www.undp.org/content/dam/srilanka/docs/localpublications/Sri%20Lanka%20Human%20Development%20Report%202012.pdf>> ('*Sri Lanka Development Report 2012*').

<sup>85</sup> Kanapathypillai (n 51); Lawrence (n 55).

<sup>86</sup> Lawrence (n 55); Vijayapalan (n 37).

<sup>87</sup> *Sri Lanka Development Report 2012* (n 84).

<sup>88</sup> Nadesan (n 49).

<sup>89</sup> United Nations Children's Fund Sri Lanka, *Out-of-School Children in Sri Lanka: Country Study* (Report, February 2013) ('*Out-of-School Children in Sri Lanka*').

<sup>90</sup> *ibid*; A S Chandrabose and P P Sivapragasam, *Red Colour of Tea: Central Issues that Impact the Tea Plantation Community in Sri Lanka* (Sri Lanka: Human Development Organization 2011).

<sup>91</sup> Department of Census and Statistics, *Sri Lanka Labour Force Survey Annual Report 2015* (Annual Report, 17 November 2016) 9.

<sup>92</sup> *ibid* 20.

<sup>93</sup> Department of Census and Statistics, *Household Income and Expenditure Survey 2012/13* (Report, 21 March 2015) 42; Vagisha Gunasekara, *Unpacking the Middle: A Class-based Analysis of the Labour Market in Sri Lanka* (Discussion Paper, February 2015) 10; World Bank, *Sri Lanka Poverty Assessment, Engendering Growth with Equity: Opportunities and Challenges* (Report, 23 January 2007).

to the most recent Labour Force Surveys, it is the estate sector that has recorded the lowest mean and median household income for the past two years running.<sup>94</sup>

It is because many still rely on estate healthcare that is removed from the national health system, estate schools mired in a history of neglect and readily available though poorly remunerated plantation employment, that increased access to government healthcare services, and educational and employment opportunities beyond the estate must be investigated to determine whether the acquisition of citizenship has brought with it substantive benefit in the post-2003 era.

As stated above, the #IBELONG Campaign tells us that that ‘stateless people want nothing more than to come in from the cold — to belong’.<sup>95</sup> Immediately following this statement, we are told that this ‘is often impossible’<sup>96</sup> because stateless people are ‘politically impotent’<sup>97</sup> and as such cannot organise to affect change. Exploring whether the acquisition of citizenship has remedied the assumed political impotency of a previously stateless population, and the implications this has for bringing the stateless in from the cold, is reason enough to explore whether Sri Lanka’s Up-Country Tamil population do indeed have increased access to the political process in the post-2003 era. However, it is important to remember that prior to Ceylon’s independence from British rule, some 100,000 Up-Country Tamils registered to vote in the 1931 State Council elections, which elected two Up-Country Tamil representatives to the State Council.<sup>98</sup> Five years later, some 145,000 Up-Country Tamil voters returned another two Up-Country Tamil representatives to the State Council.<sup>99</sup> Building on this momentum, in 1939 the Ceylon Indian Congress (later renamed the Ceylon Workers’ Congress) was formed to protect the rights of Indians and those of Indian descent in the country.<sup>100</sup> Unfortunately, this rising chorus of political participation was altogether silenced by the citizenship and elections acts passed in 1948 and 1949, and save the sporadic strike actions undertaken by plantation labourers in the intervening years, Sri Lanka’s Up-Country Tamil population remained effectively silenced until the issue of citizenship was resolved. It is precisely because the Up-Country Tamil population constituted a consequential political demographic that was silenced with the enactment of the *1948 Act* that increased access to political participation must be investigated to determine whether the acquisition of citizenship has brought with it substantive benefit in the post-2003 era.<sup>101</sup>

## 1 *Healthcare*

Overall, the majority of questionnaire survey respondents indicated that access to government healthcare services has improved since the 2003 grant of citizenship, with a near equal representation of women and men again indicating that this was

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<sup>94</sup> As of 2019. See Department of Census and Statistics, *Sri Lanka Labour Force Survey Annual Report — 2017* (Annual Report 2<sup>nd</sup> Version, 7 May 2019) 9.

<sup>95</sup> *UNHCR Special Report* (n 3) 16.

<sup>96</sup> *ibid.*

<sup>97</sup> *ibid.*

<sup>98</sup> Jayarwardena and Kurian (n 47); Lawrence (n 55); Vijayapalan (n 37).

<sup>99</sup> *ibid.*

<sup>100</sup> Jayarwardena and Kurian (n 47).

<sup>101</sup> See Questionnaire and Interview Findings.

so.<sup>102</sup> However, the lack of reported improvement is marginally more commonplace in rural areas.<sup>103</sup>

When asked whether access to government healthcare services beyond the estate has improved since the 2003 grant of citizenship, the majority of interviewees (27/30) indicated that access has improved, with a near equal representation of women and men (14 women and 13 men) reporting this so as to suggest that there was no gendered division in terms of physical access.<sup>104</sup> Three interviewees were unable to comment due to a lack of experience using these services. However, two of the three who were unable to comment due to a lack of experience responded from a place of resignation when discussing personal access to healthcare services, one of whom was Kumuthuvalli, a 28-year-old female from Passara: ‘Those who are poor, still they live like that — either before or after citizenship. Those who have the money, they can improve their health, but for the poor, nothing changes’.<sup>105</sup> The other was her neighbour, Anandan, a 53 year-old male from Passara, who remarked: ‘We are living in isolation. For this reason we don’t know how to go to town and buy medicines or other things. We stay in this place only, because we don’t know of any changes’.<sup>106</sup> Though the words of two individuals do not indicate a trend, their lack of experience using healthcare services beyond the estate indicate a self-perceived sense of non-entitlement to a world outside the estate, and hence should not be overlooked.

## 2 *Education*

The majority of questionnaire survey respondents indicated that access to schools outside one’s respective estate had improved since the 2003 grant of citizenship, with women predominating in this response.<sup>107</sup> However, more than three-quarters of those who responded ‘no’ when asked whether access to schools outside the estate had improved since 2003 are from Dickoya, indicating a serious lack of access to public education in this community despite their recently acquired citizenship.<sup>108</sup>

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<sup>102</sup> It should be noted that 77 of 100 respondents (37 women and 40 men) indicated that they did have access to government healthcare services beyond the estate prior to 2003. See Figure 1.

<sup>103</sup> See Figure 2.

<sup>104</sup> Similarly, the majority of interviewees (13 female and 15 male) indicated that they did have access to government healthcare services beyond the estate prior to the 2003 grant of citizenship.

<sup>105</sup> Interview with Anonymous (Patrick Balazo, 10 August 2016).

<sup>106</sup> Interview with Anonymous (Patrick Balazo, 10 August 2016).

<sup>107</sup> Figure 3.

<sup>108</sup> Figure 4.



*Would you say your access to government healthcare services beyond the estate has improved as a result of the 2003 grant of citizenship?*

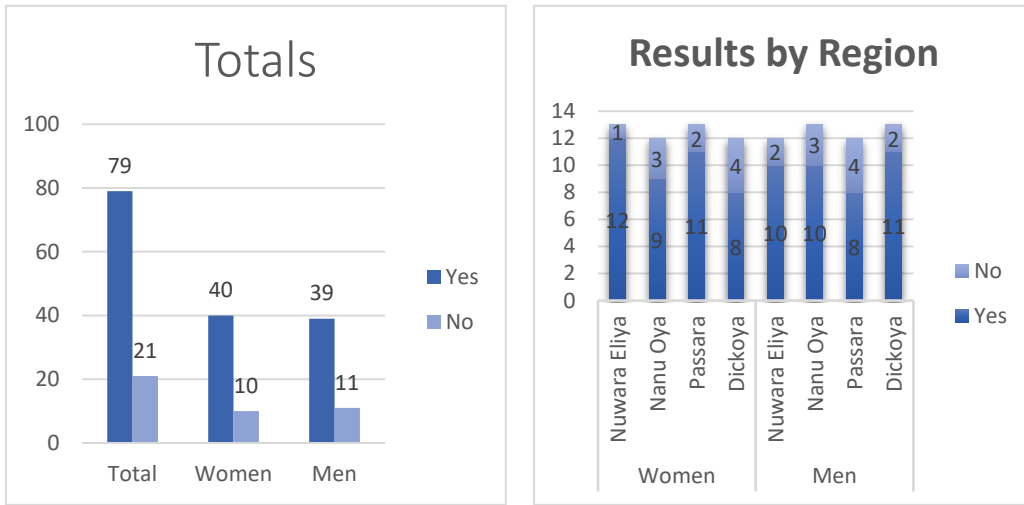


Figure 1

Figure 2

*Would you say your access to government school outside the estate has improved as a result of the 2003 grant of citizenship?*

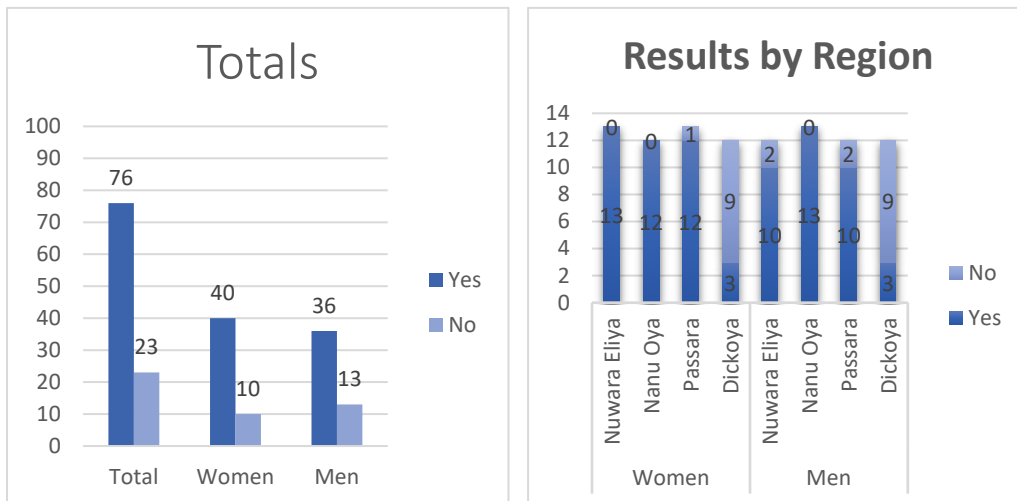


Figure 3<sup>109</sup>

Figure 4

When asked whether access to government schools outside the estate has improved since the 2003 grant of citizenship, the majority of interviewees (18/30) indicated that access has improved, with an equal representation of women and men reporting this so as to suggest that there was no gendered division in terms of

<sup>109</sup> One male respondent from Dickoya chose not to answer this question.

physical access.<sup>110</sup> Of the remaining 12 interviewees who indicated that access has not improved, seven were also unable to access schools prior to 2003, meaning that nearly a quarter of those interviewed are entirely reliant on estate schools. One such person was Annamalai, a 52-year-old male from Passara, who stated: ‘When I was young, my family faced many financial problems, and there was the high cost of transport, so because of that I was unable to attend town schools. The same reasons are also preventing my children from going to school outside the estate today’.<sup>111</sup> Four of the remaining five interviewees have had access to non-estate schools all along, and one reported that a non-estate school was the only available school during his youth.

### 3 *Employment*

More than half of all survey respondents indicated that access to formal employment outside of one’s respective estate has improved since 2003.<sup>112</sup> Access has improved more for urban rather than rural respondents, and for women.<sup>113</sup> The majority of rural respondents have indicated that access to such opportunities has not improved, and of particular concern, Dickoya is again substantially overrepresented in these findings with only four out of 12 male respondents indicating that access has indeed improved.<sup>114</sup>

When asked whether access to formal employment outside the estate has improved since the 2003 grant of citizenship, the majority of interviewees (17/29) indicated that access has not improved, with a near equal representation of women and men indicating that this was so (eight women and nine men). The majority of those reporting an improvement in access or entitlement to formal employment outside of the Estate since 2003 were already able to secure such employment prior to the grant of citizenship, suggesting that little has changed for those who were unable to access said employment prior to 2003. The claim of ‘no opportunities’ predominates for those interviewees who are rurally located. Further, it is only in rural regions where transport issues were reported as preventing interviewees from seeking employment, as articulated by Annamalai, who remarked: ‘We don’t have a place outside [the estate] because of transportation problems. There are so many vacancies in town, but we can’t go to

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<sup>110</sup> Though this may suggest that there is no gendered division in terms of physical access to schools beyond the estate, this should only be read as a provisional finding that overlooks the historical subordination of women within the plantation labour regime, and how the forces of social reproduction continue to impact access to services. Although women perform the most vital element of plantation labour, the very plucking of tea upon which the plantation economy rests, it is also women who perform ‘most of the (unpaid) care work within the household’: Jayawardena and Kurian (n 47) 247. Because of the unspoken expectation for women to attend to children, the sick and the elderly, the imposed responsibility to ensure that one’s household is kept in order, and finally the need to contribute to household income by way of waged work on the plantation, some women may shoulder an undue work load, a ‘second shift’: Arlie Russell Hochschild, *The Second Shift* (Penguin Books 2003). For this reason, women may not have the same *ease of access* to schools beyond the estate as compared with their male counterparts, raising the question of how the forces of social reproduction delineate women’s access to education.

<sup>111</sup> Interview with Annamalai (Patrick Balazo, 10 August 2016).

<sup>112</sup> Figure 5.

<sup>113</sup> Figure 6.

<sup>114</sup> Figure 6.

town because of the transportation problems. If people come and offer employment and job vacancies here, we can work'.<sup>115</sup>

#### 4 Political Participation

Just over half of all survey respondents have indicated that their ability to participate in some manner of the political process has improved since 2003.<sup>116</sup> Of those that have reported this, men predominate. As well, urban respondents account for the majority of those who have reported an improvement.<sup>117</sup>

*Would you say your access to employment in the formal sector outside the estate has improved as a result of the 2003 grant of citizenship?*

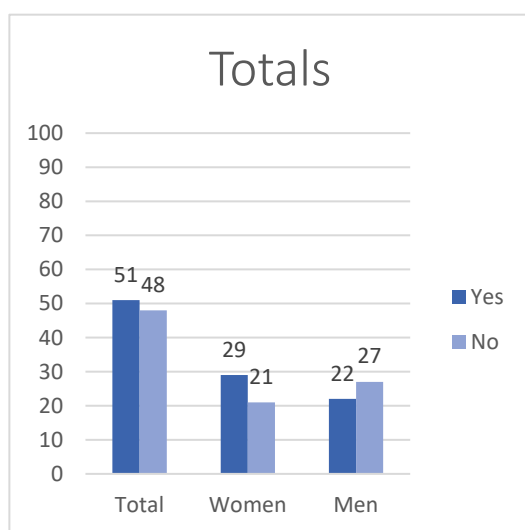


Figure 5<sup>118</sup>

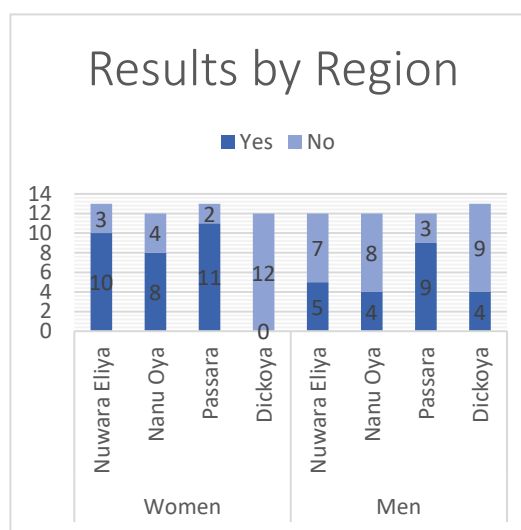


Figure 6

<sup>115</sup> Interview with Annamalai (Patrick Balazo, 10 August 2016).

<sup>116</sup> Figure 7.

<sup>117</sup> Figure 8.

<sup>118</sup> One male respondent from Nanu Oya chose not to answer this question.

*Would you say your ability to participate in the local, municipal, provincial or national political process has improved as a result of the 2003 grant of citizenship?*

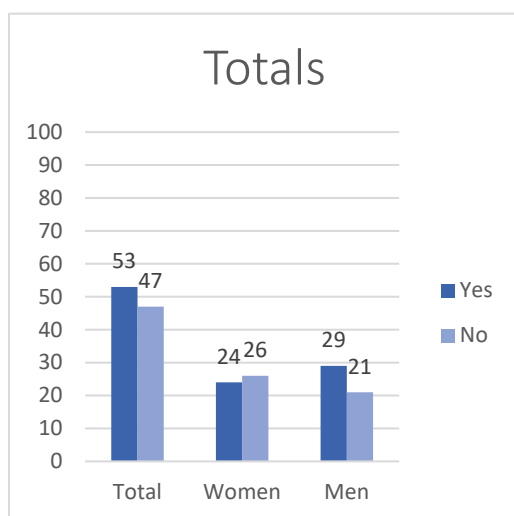


Figure 7

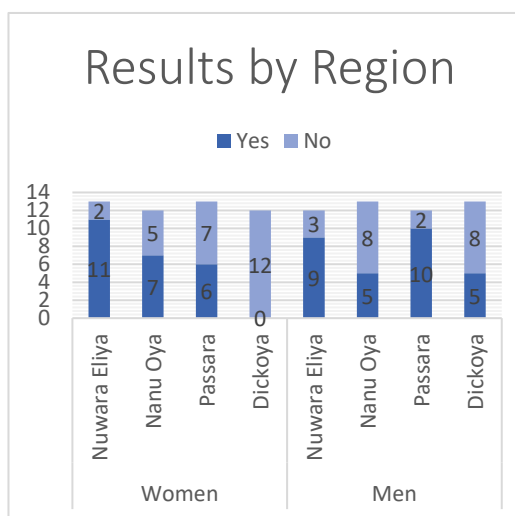


Figure 8

In sum, women are overrepresented in reporting that the ability to partake in the political process has not improved, and it should be noted that less than half of Passara's female respondents and *none* of Dickoya's female respondents indicated any improvement.<sup>119</sup>

When asked whether access to the political process has improved since the 2003 grant of citizenship, the majority of interviewees (16/30) indicated that access has improved, with men predominating in this response (six women and 10 men). Among this 16, only two rural interviewees report an improvement in political participation, one of whom was too young to participate prior to 2003, suggesting that rural communities have been neglected in the post-2003 era. A perceived increased opportunity to become involved in the political process was the leading factor as to why interviewees perceived their access to have been improved since 2003. Among the initial 14 interviewees who reported no improvement in access and entitlement to political participation, the preference not to participate is the leading reason for the reported lack of improvement, with the distrust of politicians as the second leading reason. For instance, Privadharshani, a 27 year-old female from Nuwara Eliya, stated, 'I'm not interested in politics. Listening to politicians is a waste of time, because only when they want our votes do they come and talk to us, but after they don't do any work for us. This is why I hate politics'.<sup>120</sup> Mirroring such sentiment, 65-year-old Balasundaram, a 65-year-old female from Passara kept her comments short, 'There's nothing good about politics. Politicians do nothing for us'.<sup>121</sup> It should be noted that six of the seven who held a preference not to participate were women, and when combined with those women who stated that access had improved but chose not to participate, a total of 11/15 female interviewees have chosen not to

<sup>119</sup> Figure 8.

<sup>120</sup> Interview with Nuwara Eliya (Patrick Balazo, 10 August 2016).

<sup>121</sup> Interview with Balasundaram (Patrick Balazo, 10 August 2016).

participate, and are in some respect alienated from the political process. Finally, rurally located interviewees constitute the majority (8/14) of those who report no improvement in access.

## 5 *Belonging*

Belonging is difficult to define and difficult to appraise. As previously noted, this study is placed within the context of the UNHCR's global *#IBELONG* Campaign to end statelessness by 2024. For this reason, the term *belonging* used in this paper is in direct reference to the *#IBELONG* Campaign, though this does not bring us any closer to what *belonging* actually means. To further complicate matters, nowhere does the UNHCR define this term, though it does provide an explanation of what belonging is not:

Across the world today more than ten million people are told they don't belong ANYWHERE. They are called 'stateless'. They are denied a nationality. And with it, they are denied their basic rights. Statelessness can mean a life without education, without medical care, or legal employment. It can mean a life without the ability to move freely, without prospects, or hope.<sup>122</sup>

In view of the above, and for the purposes of this paper, belonging is to be understood as having a nationality that entitles one to basic rights such as, but not limited to, the right to education, the right to medical care, the right to work, freedom of movement and to a life where one is ultimately free to pursue their hopes and dreams.

The challenge of trying to qualify and quantify belonging owes to its intangible nature. Belonging is not static, nor is it a good to be kept. Rather, it is reified only through the words and actions of one's peers, friends, and loved ones, and by the degree to which one finds oneself reflected in the prevailing dominant culture. Though this explanation is not beyond the realm of comprehension, it does not easily provide for the undertaking of annual United Nations Human Belonging Index whereupon social scientists can measure how belonging has waxed and waned throughout the years. However, this does not mean that it is beyond the scope of enquiry, for not only is belonging an essential component of human social life, it implicitly shapes the historical experience of groups that have at one time not belonged, such as the Up-Country Tamils of Sri Lanka.

Though it is difficult to capture the extent to which persons and populations feel as though they belong, because people simply perceive themselves to either belong or not belong to a given group or society, an appraisal of belonging can nonetheless be pursued. In an effort to determine the extent of belonging among this population, questionnaire survey respondents and interviewees were asked: whether the acquisition of Sri Lankan citizenship, and by extension formal recognition as people of Sri Lanka, was of benefit *in toto*; whether they perceived themselves to be the equals of the majority population; and what the foremost challenge confronting this community was. Given that 'the main reason people are stateless is because of discrimination',<sup>123</sup> equality, meaning equal rights, responsibilities and opportunities was chosen to gauge whether people felt as though they now belonged. Still, questionnaire survey respondents and

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<sup>122</sup> United Nations High Commissioner for Refugees, 'IBELONG — Join the Campaign to End Statelessness' (Website) <<http://www.unhcr.org/ibelong/>>.

<sup>123</sup> *ibid.*

interviewees were free to interpret equality as they so pleased. It may very well be that *feeling equal* does not capture the affective properties of belonging that lay beyond rights entitlements, but it does provide a measure of insight into whether or not the acquisition of citizenship after a prolonged period of statelessness necessarily entails belonging.

Just over half of all survey respondents have indicated that the acquisition of citizenship has been of benefit, with a near equal representation of women and men indicating that this was so.<sup>124</sup> Further, the majority of respondents who indicated that citizenship has been of benefit are from urban locales. Conversely, the majority of respondents who saw citizenship as bringing with it no benefit are from rural locales.<sup>125</sup> It should be noted that half of the women from Nanu Oya, and *all women* from Dickoya deem the acquisition of citizenship to be of no benefit.<sup>126</sup>

The majority of interviewees (19/30) see no benefit from the 2003 grant of citizenship. More than half of all women and men are of this opinion (eight women and 11 men), with men slightly overrepresented. The leading reason provided for this sentiment is some variation of the general belief that nothing has changed, that nothing has been provided by the government in the wake of the grant of citizenship, that interviewees are not aware of any benefits and that the government continues to neglect this community. For instance, Santos, a 51-year-old man from Nanu Oya, gave the following response when asked if he or his community had benefitted from the 2003 grant of citizenship: ‘Things now are exactly like they were 100 years before. Still it is the same, nothing has changed. There are no benefits with citizenship’.<sup>127</sup> Of the remaining 11 interviewees, five believed the grant of citizenship to be of partial benefit only, and government neglect was provided as reason for such ambivalence. The remaining six interviewees explicitly stated that the grant of citizenship was of benefit, with each interviewee providing a different reason for this response.<sup>128</sup>

Slightly more than half of all survey respondents indicated that the Up-Country Tamil community has indeed achieved equality with the majority population in wake of the 2003 grant of citizenship, with women and men equally represented.<sup>129</sup> Like the above findings, the majority of respondents who perceive equality to have been achieved are from urban locales. Conversely, and although women and men are again equally represented, the majority of those respondents who do not perceive equality to have been achieved are from rural locales, with over half of all respondents from Passara and Dickoya having indicated this.<sup>130</sup>

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<sup>124</sup> Figure 9.

<sup>125</sup> Figure 10.

<sup>126</sup> Figure 10.

<sup>127</sup> Interview with Santos (Patrick Balazo, 10 August 2016).

<sup>128</sup> The six reasons provided for why the grant of citizenship is deemed to have been of benefit are as follows: with citizenship, there is now peace between all communities; the overall standard of living has improved despite low levels of remuneration for plantation labour; the government has increased funding to Up-Country Tamil communities; citizenship enables one to do anything they please; because of citizenship Up-Country Tamil people now receive respect when in town; citizenship has made all Sri Lankans equal.

<sup>129</sup> Figure 11.

<sup>130</sup> Figure 12.

Overall, would you say your community has benefitted from the 2003 grant of citizenship?

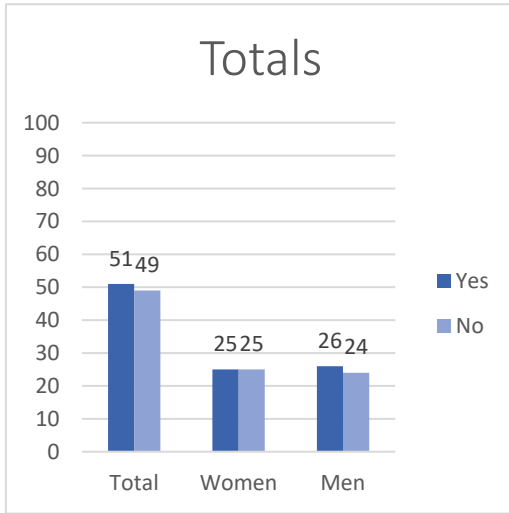


Figure 9

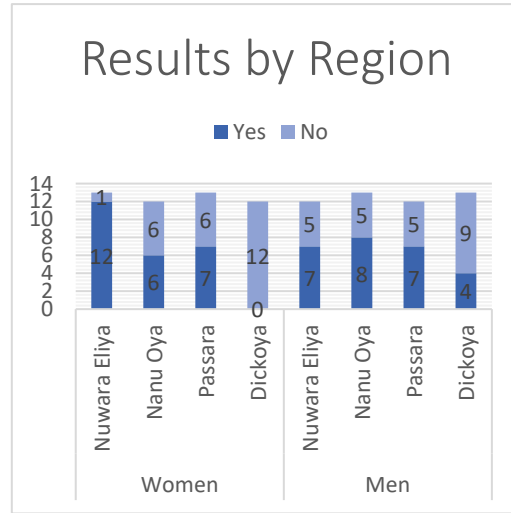


Figure 10

Would you say your community has achieved equality with the majority of Sri Lankan citizens as a result of the 2003 grant of citizenship?

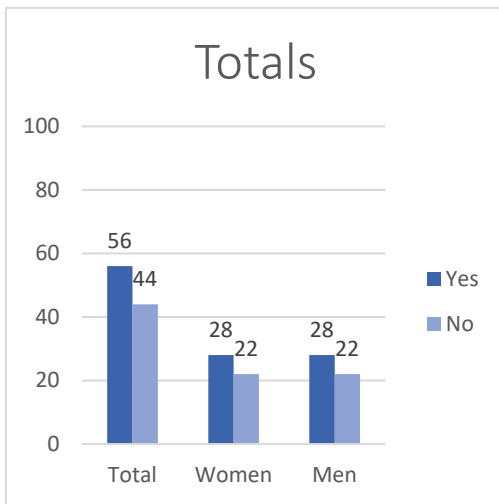


Figure 11

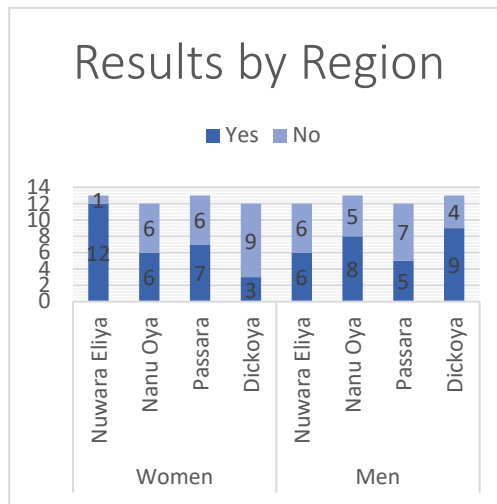


Figure 12

When asked whether the Up-Country Tamil population has achieved equality with the majority population following the 2003 grant of citizenship, the majority of interviewees (19/30) do not view their community as having achieved such equality, with a near equal representation of women and men indicating that this was so (nine women and 10 men). The leading reason provided as to why interviewees are of this opinion is that the Sinhala majority are still very much perceived as the dominant ethnic group at the expense of the Up-Country Tamil community, wherein the needs and wants of the former take precedent over those

of the latter. Of the 11 remaining interviewees, two were unable to comment because they had no experience to reflect upon, suggesting the presence of a lack of self-entitlement to a life beyond the estate. The remaining nine interviewees explicitly stated that their community had achieved equality with the majority population, with a belief that Sri Lankans were now united provided as the leading reason for this response.

Finally, when asked about the foremost challenge confronting the Up-Country Tamil population, and what interviewees believed could be done to overcome said challenge, the nexus of poverty, low incomes and a lack of job opportunities was the most commonly cited challenge highlighted among those who were able to respond (14/29). Securing employment other than that provided by the estate and increased government support for the Up-Country Tamil community alongside increased parliamentary representation were the most common responses provided as to how this challenge may be overcome.

#### IV DISCUSSION

Based on the findings presented above, it can be postulated that access and entitlement to healthcare, education and employment among Sri Lanka's previously stateless Up-Country Tamil population has improved as a result of the 2003 grant of citizenship. Though not everyone consulted shared these views, the majority of questionnaire survey respondents and interviewees have reported a general improvement in access and entitlement with respect to these three indicators. In contrast, 50.7 per cent of all those consulted indicated that access and entitlement to political participation has *not* improved in the wake of citizenship, yet this makes for a non-negligible 49.2 per cent of respondents and interviewees who believe it has. Evidently, the acquisition of citizenship has brought with it substantive benefit, but when the above findings are disaggregated it is made apparent that not all of those consulted have an equal share in these benefits.

When accounting for the responses of the urban versus rural population, it is rural respondents and interviewees who are overrepresented in reporting a lack of improvement in access and entitlement following the 2003 grant of citizenship. For instance, among the 23 survey respondents who indicated that access to government schools outside the estate had not improved since 2003, 21 are rurally located, of whom 18 are from Dickoya. Further, more than half of the survey respondents who indicated that access to formal employment outside the estate had not improved are again rural, with seven of 10 rural interviewees supporting this claim by either stating that no such opportunity exists, or that the prohibitive cost of transport prevents them from pursuing such opportunities. Of the 47 survey respondents who indicated that the ability to participate in the political process had not improved, 29 are rurally based in addition to a further nine out of 10 rural interviewees who for one reason or another are alienated from the political process. As well, it is rural respondents that comprise the majority of those who see the acquisition of citizenship as non-beneficial and perceive themselves not as the equals of the majority population. For these reasons, and despite the general improvement in access and entitlement to each indicator under investigation, it can be said that there exists a rural rights deficit in the Up-Country.

Beyond the urban-rural divide, analysis of the above findings reveals three more findings, the first of which is a self-perceived non-entitlement to life outside



or beyond the estate coupled with an absent sense of equality. To be sure, only a minority of those consulted conveyed such sentiment, but because it is said that ‘stateless people want nothing more than to come in from the cold — to belong’,<sup>131</sup> any indication that some among the previously stateless have yet to come in from the cold warrants attention. With respect to healthcare, two interviewees were unable to speak of their experience using the healthcare system because they had never attempted to use these services. As for employment, five of the 17 interviewees who reported that access and entitlement had not improved had chosen not to pursue employment opportunities outside the estate, again suggesting the presence of a self-imposed sense that one is not entitled to life beyond the estate. Added to this are nine interviewees who indicated that informal employment beyond the estate was indeed available but elected not to pursue such opportunities. Further, among the 14 interviewees who indicated that their ability to participate in the political process had not improved in the post-2003 era, seven had simply chosen not to participate. While these findings are in no way representative of the majority of those consulted, they are underpinned by the 44 survey respondents and 19 interviewees who do not perceive equality with the majority population to have been achieved, not to mention the two interviewees who were unable to comment because they had no experience of life outside the estate. Thus, whether it is the four who have expressly stated that they have no place outside the estate or the limited few who have elected not to involve themselves with matters beyond the estate, the boundaries of the estate seem to delimit the choices and opportunities of a significant few.

An analysis of the above findings also brings another finding into focus: the acquisition of citizenship as non-beneficial in these early stages. Of the 100 respondents surveyed, 49 view the acquisition of citizenship as bringing with it no substantive benefit beyond the legal identity before the state it provides. When this number is coupled with the 19 of 30 interviewees who share this view, 52.3 per cent of all those consulted deem the acquisition of citizenship to be non-beneficial. This finding does appear to conflict with the general improvement in access and entitlement to healthcare, education and employment reported elsewhere, though such conflict is not reason enough to overlook or dismiss how people qualify their experience of citizenship. This finding does not mean that the acquisition of citizenship was held to be detrimental, for no one who viewed it as being non-beneficial suggested this. Rather, it challenges the notion that statelessness ‘can be resolved in a single moment’,<sup>132</sup> and establishes that declarations of Sri Lanka’s success in ending statelessness were made in haste.

## A *Discussion*

### 1 *The Rural Rights Deficit*

The rural rights deficit outlined above is underpinned by three interconnected variables that operate to reinforce one another: poverty; the physical isolation that comes with residing in enclave-like plantations which either precludes the regular presence of Up-Country Tamils from public spaces beyond the estate or intercourse with the majority population; and political alienation. Among

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<sup>131</sup> *UNHCR Special Report* (n 3) 16.

<sup>132</sup> *ibid* 20.

interviewees, it is poverty that precludes them from access to non-estate schools because the finances needed to cover the costs of transportation to said schools are unavailable. However, it is because these communities are so remote that the cost of transportation is so high. Of course, an increase in household income would provide the finances needed to meet such costs. Yet, opportunities to secure formal employment outside the estate either do not exist, or the cost of transportation to pursue such opportunities and by extension increase household income prohibits people from doing so. Thus, the inability to pursue non-estate education remains. In short, poverty and physical isolation combine to limit one's options in the fields of education and employment, and in this way the right to education and the right to work are never fully realised. Additionally, alienation from the political process, which is itself indicative of a political rights deficit, marks the more rural regions of the Up-Country. In this way, there is little opportunity for rural Up-Country Tamil citizenry to voice their concerns on matters of education and employment and challenge the reigning rights deficit.

Because the right to education, employment and political participation are without full realisation in the more rural regions of the Up-Country,<sup>133</sup> recently acquired Sri Lankan citizenship is largely nominal with respect to these rights insofar as legal recognition before the state has brought with it little substantive benefit in terms of access and entitlement to education, employment and political participation 14 years on from having acquired citizenship.

## 2 *Belonging in Place*

As the interviews have revealed, at least four of those consulted are of the view that they have no place outside the estate, while another significant few have elected not to involve themselves with matters beyond their respective estate. This suggests that the plantation boundary limits the choices and opportunities available to some or that others do not feel as though they are welcome in the world beyond the estate.

As stated by Kathlene Mee and Sarah Wright, 'belonging connects matter to place, through various practices of boundary making and inhabitation which signal that a particular collection of objects, animals, plants, germs, people, practices, performances, or ideas is meant "to be" in a place'.<sup>134</sup> This understanding of belonging is in keeping with the Up-Country Tamils as belonging *to* Sri Lanka, and specifically the Up-Country, given that this region of the country has been self-identified as *their* place and one that spatially and symbolically links this population to Sri Lanka. Further, there is no one way of belonging as it is possible 'to belong in many different ways at many different scales'.<sup>135</sup> For this reason, the Up-Country Tamil population can again be said to belong to the Up-Country and to one another as a group. However, it is precisely because there are different ways and scales of belonging that some do not belong to a world beyond the estate. Put

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<sup>133</sup> The rights deficits observed in Dickoya coupled with the overwhelming belief that the acquisition of citizenship has been of little benefit also recorded in Dickoya signal the need for more comparative research to be conducted on this plantation and those in the Dickoya region with plantations in other regions of Central and Uva provinces to determine whether the findings on Dickoya are an aberration, or genuinely reflect how people qualify citizenship in the more rural regions of the Up-Country.

<sup>134</sup> Kathleen Mee and Sarah Wright, 'Geographies of Belonging' (2009) 41(4) *Environment and Planning* 772, 772.

<sup>135</sup> *ibid.*

differently, belonging may be realised in one's immediate family and community, school or religious community, and gender or age group, but when scaled up to more impersonal spaces and places this same sense of belonging is not necessarily reproduced, particularly for those who have been constructed to be members of an other ethnic collectivity and long considered not to belong to the nation-state community,<sup>136</sup> such as the Up-Country Tamil population. For interviewees who expressed that they had no place in the spaces beyond the estate, and for those who otherwise opt not to involve themselves in matters outside the estate, it may very well be that a legacy of isolation and discrimination has produced a common sense understanding of the plantation as the place *where* one belongs, or conversely, that such belonging is presumed not to be found outside the estate.

This absent sense of belonging is again underpinned by the 44 survey respondents and 19 interviewees who do not perceive equality with the majority population to have been achieved. As previously discussed, it may very well be that *feeling equal* does not capture the affective properties of belonging that lay beyond rights entitlements, and by extension, that equality and belonging are not wholly equivalent. However, by determining that some among this population do not feel as though they are equals of the majority population, and based on an understanding of belonging as informed by the UNHCR *#IBELONG* Campaign, it can be said that the acquisition of citizenship has not provided some previously stateless persons with the belonging it is assumed to provide.

### 3 *De Facto Citizenship*

Based on the evidence gathered from what is a rather small sample size, and although it is only a minority who harbour a sense of not belonging,<sup>137</sup> the majority of all those consulted in this study deem the acquisition of citizenship as non-beneficial and in so doing underscore that the legal conferment of citizenship should not be taken as a panacea for the many encumbrances that befall the stateless. It is true that the acquisition of a legal identity before the state, and thus all states, is invaluable when considering the many and varied degradations that statelessness can invite, but the act of conferment and the provision of rights and entitlements are not one in the same. Unfortunately, the literature on how previously stateless groups view the acquisition of citizenship has yet to be fully developed, and it is only the situation of the previously stateless Urdu-speakers of Bangladesh that this study may be compared with as many in this community ascribe little value to citizenship given that there too, a legacy of discrimination and marginalisation largely operates to prevent this community from securing the

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<sup>136</sup> Nira Yuval-Davis, 'Intersectionality, Citizenship and Contemporary Politics of Belonging' (2007) 10(4) *Critical Review of International Social and Political Philosophy* 561.

<sup>137</sup> Four of 30 interviewees revealed that they do not interact with the world beyond the estate, suggesting that one's respective plantation is the place *where* one belongs. With respect to healthcare, two interviewees quoted above were unable to speak of their experience using the healthcare system because they had never attempted to use these services. Kumuthuvalli claimed that for the poor nothing will change, hence there is no sense in seeking medical assistance other than what is available in the estate, whereas Anandan declared that he and his family stay within the estate because they know not of the world beyond the estate. Added to this are the two interviewees who could not comment on whether the Up-Country Tamil population had achieved equality with the majority population given that they had no experience of life beyond their estates to reflect on.

rights of citizenship that are said to be theirs and which they are owed.<sup>138</sup> Nevertheless, the findings presented herein challenge the reigning narrative of ending statelessness in Sri Lanka as a tale of success and are instructive for the global #IBELONG Campaign to end statelessness by 2024.

#### 4 Seeking Dissensus

Although there exists a rural rights deficit, this study has not revealed that those who are subject to this deficit and unable to enact their rights have undertaken to construct a dissensus against the denial of rights they suffer. Rather, inaction, accommodation or resignation characterise how people respond to such denial. It must be understood that people's actions or the lack thereof, and the manner by which they exercise their agency is conditioned by the cultural contexts and social structures they inhabit, meaning that the specific form agency takes will vary in different times and places,<sup>139</sup> though it is never entirely absent. However, as Bass argues, the Up-Country Tamil population is acutely aware of how 'hegemonic social and political systems allow them little leverage or voice in affairs beyond their immediate surroundings'.<sup>140</sup> For this reason, inaction, or what can otherwise be referred to as resignation, 'is often the result of a pragmatic decision to avoid conflict when their efforts would not likely lead to tangible results'.<sup>141</sup> Still, it is imperative to view resignation and resistance not as antithetical but as 'being a continuum of one activity',<sup>142</sup> for resignation is not indicative of an absence of agency but does signal that the 'coincidence of forces and factors that will enable change to occur',<sup>143</sup> such as constructing a dissensus against a denial of rights, have yet to emerge and that inaction or resignation is the most profitable course of action for the time being. Ultimately, the inaction, accommodation or resignation observed among some respondents is a strategised response to the hegemonic social and political systems some have encountered, though this particular method of negotiation is but one of many options pursued by respondents in the given historical moment.<sup>144</sup>

Be that as it may, it must be understood that out of a sum total of only 30 interviews, inaction, accommodation or resignation to hegemonic social and

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<sup>138</sup> Khalid Hussain, 'The End of Bihari Statelessness' (2009) 32 *Forced Migration Review* 30; Ninette Kelley, 'Ideas, Interests and Institutions: Conceding Citizenship in Bangladesh' (2010) 60(2) *University of Toronto Law Journal* 349; Katherine Southwick, 'The Urdu-speakers of Bangladesh: An Unfinished Story of Enforcing Citizenship Rights' in Sri Lanka' in Brad K Blitz and Maureen Lynch (eds), *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Edward Elgar 2011) 115; Victoria Redclift, *Statelessness and Citizenship: Camps and the Creation of Political Space* (Routledge 2013).

<sup>139</sup> Sherry B Ortner, *Anthropology and Social Theory: Culture, Power and the Acting Subject* (Duke University Press 2006); Bass (n 61).

<sup>140</sup> Bass (n 61) 99–100.

<sup>141</sup> *ibid.*

<sup>142</sup> Doug Munro, 'Patterns of Resistance and Accommodation' in Brij V Lal, Doug Munro and Edward D Beechert (eds), *Plantation Workers: Resistance and Accommodation* (University of Hawaii Press 1993) 10.

<sup>143</sup> Bass (n 61) 99.

<sup>144</sup> By way of example, 30-year-old Kanchana reported that her child was discriminated against when attending a town school because of their family's ethnic identity. It was said that Sinhala students were favoured by the teachers, and that as a result her child received far less attention than Sinhala students. Further, her child was made to sit at the back of the class as opposed to Sinhala students who were seated at the front. In response, Kanchana removed her child from the town school and enrolled her child in an estate school.

political systems was only observed among a minority,<sup>145</sup> and given that the Up-Country Tamil population numbers nearly one million,<sup>146</sup> it would be irresponsible to state with authority that resignation is how this population *as a whole* responds to these systems, or that dissensus does not exist in the Up-Country. Moreover, the short time spent with each interviewee along with how interview questions were structured may not have allowed for methods of negotiating hegemonic systems apart from direct confrontation to emerge in the responses provided by those consulted, and for this reason the claim that resignation is the primary response to such systems advanced above should not be read as conclusive.<sup>147</sup> As Scott reminds us, ‘much of the politics of subordinate groups falls into the category of everyday forms of resistance’ which include such acts as ‘foot dragging, dissimulation, false compliance, feigned ignorance, desertion, pilfering, smuggling, poaching, arson, slander, sabotage, surreptitious assault and murder, anonymous threats, and so on’.<sup>148</sup> Such resistance is decidedly clandestine and unlikely to do more than marginally affect the various forms of exploitation that subordinate groups encounter,<sup>149</sup> though it is precisely because of ‘the nature of the acts themselves and the self-interested muteness of the antagonists’<sup>150</sup> that social scientists preoccupied with direct threats to power, the author included, are unable to uncover the forms of everyday resistance surreptitiously deployed to advance the interests of subordinate groups or to thwart the claims of those who dominate the exercise of power.<sup>151</sup> What is more, the absence of direct confrontation or organised social movements to challenge prevailing power hierarchies may be wrongfully observed by researchers as quiescence or submission, thereby overlooking ‘the slow, grinding, quiet struggle’<sup>152</sup> against exploitation that relies on public displays of submission as a necessary tactic in those circumstances where open defiance is either impossible or entails mortal danger.<sup>153</sup> For these reasons, this study may not have captured the fine-grained totality of the methods used to respond to hegemonic social and political systems by those consulted, such that resignation in the face of adversity is only a provisional finding.

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<sup>145</sup> Four of 30 interviewees revealed inaction, accommodation or resignation as a response to difficulties with negotiating access to healthcare, education and formal employment beyond the estate.

<sup>146</sup> Department of Census and Statistics, *Census of Population and Housing — 2012* (Report, 30 June 2015) 4.

<sup>147</sup> Interviewees who revealed they had encountered discrimination or other less explicit barriers that prevented them from accessing healthcare, education and formal employment beyond the estate, and from engaging the political process, were asked how they responded to these barriers so as to gauge whether interviewees had undertaken to construct a dissensus against the denial of rights they suffer. Still, by concerning itself with only open, immediate and direct responses to such hostility and discrimination, this line of inquiry may have not captured the covert methods of negotiating and responding to hegemonic social and political systems that operate to deny Up-Country Tamils their rightful access to healthcare, education, formal employment and political participation.

<sup>148</sup> James C Scott, ‘Everyday Forms of Resistance’ in Forrest D Colburn (ed), *Everyday Forms of Peasant Resistance* (M E Sharpe 1989) 5–6.

<sup>149</sup> James C Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (Yale University Press 1985).

<sup>150</sup> *ibid* 36.

<sup>151</sup> Scott, ‘Everyday Forms of Resistance’ (n 148).

<sup>152</sup> Scott, *Weapons of the Weak* (n 149) 37.

<sup>153</sup> Scott, ‘Everyday Forms of Resistance’ (n 148).

Although resignation may not be the whole of the story when considering that everyday forms of resistance may have been left unaccounted for, it nonetheless has important implications for the concept of dissensus and raises the question of whether this concept has much purchase when applied to real-world scenarios. Again, rights belong to individuals ‘when they can do something with them to construct a dissensus against the denial of rights they suffer’,<sup>154</sup> that is, to dispute the social consensus that sees one’s rights denied. Yet, if we return once more to the hegemonic social and political systems that preclude some from accessing non-estate schools and employment while convincing others that they are not entitled to non-estate healthcare, education and employment, or to participation in the political process while recalling that these systems remain unchallenged, it is clear that these individuals do not have the rights they have as guaranteed to them by the ‘inscriptions of the community as free and equal’.<sup>155</sup> In other words, the rural rights deficit outlined above brings into full view ‘the contradictions of a social order which presupposes equality but simultaneously disavows it’.<sup>156</sup> And again, this study has produced little to no evidence of rural respondents mobilising to secure that which has been guaranteed to them by way of dissensus, meaning that at the moment of analysis, many were unable to seize their rights despite constitutional guarantees. For those who have not taken such action, such as those discussed in this Part, the acquisition of Sri Lankan citizenship is little else than a hollow inscription of equality and will remain as a site of either dormant or active struggle, contestation and negotiation for as long as these individuals remain without the rights they have.

## V CONCLUSION

On 15 November 1948, Sri Lanka’s Up-Country Tamil population was rendered stateless, though because the realisation of one’s human rights is contingent on one’s political status as a citizen, this population had effectively lost the right to have rights. Specifically, because nationality is a prerequisite for accessing political and judicial processes and for claiming economic, social and cultural rights, statelessness is a matter of unparalleled concern for those who have been rendered as such. Fortunately, some 55 years later, on 11 November 2003, this situation was finally resolved, thereby remedying that predicament confronting all stateless persons alike: the absence of any legal identity to which no formal recognition by *any* state is owed, and all that this entails. For this reason, it would not be unjustified to presume that this population would be entitled to the entire gamut of human rights guaranteed by the state, yet for many among Sri Lanka’s previously stateless Up-Country Tamils, recently acquired Sri Lankan citizenship is largely nominal, operating to mask the continued marginalisation of this population and deflect attention from an enduring human rights deficit believed to have been resolved. Though it would be absurd to condemn in any way the conferment of citizenship to this once stateless population, unfettered celebration of this landmark development alongside declarations of ending statelessness in Sri Lanka as a success are perhaps as equally absurd given that such ceremony obscures the day-to-day realities confronted by many in this community, making statelessness and citizenship in the Up-Country a twice-told tale. Granted, it was

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<sup>154</sup> Rancière, ‘Who is the Subject of the Rights of Man?’ (n 19) 305–6.

<sup>155</sup> *ibid* 302.

<sup>156</sup> Rancière, *On the Shores of Politics* (n 25) 9.

found that there has been a general improvement in either access or entitlement to healthcare, education and employment in wake of the 2003 grant of citizenship, but much like the reported success of ending statelessness in Sri Lanka, this too is a rather narrow conclusion to draw and risks concealing the ongoing human rights deficit in the Up-Country twice over.

With respect to those located in the more rural parts of the Up-Country, the rights to education, employment, and political participation remain unfulfilled. It is true that this situation is underpinned by the interplay of poverty, isolation and political alienation and not a product of direct discrimination, though it would be altogether incorrect to conclude that this rights deficit is the product of natural forces. Rather, the legacy of educational neglect, the ascription of this population as *plantation workers*, and a history of institutionalised disenfranchisement — all of which are informed by an undercurrent of Sinhala Buddhist ethno-nationalism and hegemonic social and political systems — sustain this rural rights deficit. In other words, there is no single perpetrator to be held accountable for this situation, for it is institutional forces that render recently acquired citizenship to be at best second class, but this is not reason to avoid seeking redress.

Beyond this rights deficit, a sense of belonging in the wake of citizenship is in disrepair, buttressed as it is by the belief that recently acquired citizenship is of no benefit and that many perceive of themselves not as the equals of the majority population. Though it was only a minority that expressed such sentiment, some within this population harbour a self-imposed sense of non-entitlement to life beyond the plantation. Of course, that this is self-imposed is not to suggest these individuals arrived at such an understanding of the world in isolation, but that fifty-five years of this population as a much-maligned stateless Sri Lankan labour force are revealed in the words and actions of certain individuals. For this reason, it can be said that belonging has not followed from the conferment of citizenship, or that the latter does not nor should be understood as necessarily entailing the former. However, when this express sense of not belonging is placed in view of the many who deem the acquisition of citizenship as bringing with it no substantive benefit along with the general sense that this population are not the equals of the majority population, the assumption that citizenship provides for belonging is further corrupted.

Looking now to dissensus, this concept has revealed that among the minority who are subject to a rights deficit, inaction, accommodation or resignation characterises how people respond to the denial of rights they suffer. In some respect, this is positive insofar as it suggests that the majority of those consulted are not without the rights they have, or that their rights have in fact been fulfilled. In contrast, for those who continue to struggle under hegemonic social and political systems, no indication of a dissensus being waged against the denial of rights they suffer was identified, suggesting that at the moment of analysis there are some who are without the rights they have and that the conferment of Sri Lankan citizenship is little else than a hollow inscription or guarantee of equal rights. However, it is because of this very finding that dissensus maintains utility as a conceptual tool as it allows one to avoid identifying any group as altogether rightless or without agency, for when agency is understood as a continuum of one activity ranging from resignation to resistance, dissensus can be deployed to acknowledge and preserve the agency of those in question irrespective of how that agency is expressed. Furthermore, and though not by intentional design, it is important to recall that everyday forms of resistance may evade detection by

researchers, and that labelling what is perceived to be quiescence as inaction, accommodation, or resignation may altogether overlook clandestine though no less important acts of resistance that for one reason or another remain imperceptible from the vantage point of the researcher. Still, and despite this acknowledgement, it is this concept's reliance on express action and discourse that limits its utility and may lead researchers to conclude that a given population is without agency when definite evidence of dissensus has not been identified.

Globally speaking, the findings presented herein are instructive for the UNHCR's *#IBELONG* Campaign to end statelessness by 2024. That there continues to exist a rural rights deficit in Up-Country Sri Lanka more than a decade after this issue was finally resolved, and that the majority of those consulted in what was a fairly limited sample size view the acquisition of citizenship as bringing with it no substantive benefit, this paper challenges the notion that statelessness 'can be resolved in a single moment',<sup>157</sup> and establishes that declarations of Sri Lanka's success in ending statelessness were made in haste. The euphoria surrounding this campaign and the subsequent jubilation that ensues when a stateless population has been granted citizenship are warranted, but when the media campaigns, public service announcements, international consultants and funding for such endeavours return to the ether, little may have changed for said population apart from the possession of identification documents and the opportunity to pay taxes.<sup>158</sup> In principle, this Campaign must be pursued, but if little support, guidance and attention follow in the months, years, and decades after a population has been provided citizenship, it should not be expected that previously stateless persons will have the same rights and entitlements that their compatriots have come to take for granted, or that these same people will naturally begin to belong. With these potential shortcomings in mind, the *#IBELONG* Campaign may deliver previously stateless communities and populations further into the shadows upon the receipt of citizenship when the act of conferment is celebrated and memorialised at the expense of true substantive change in the lives of those who as we are told want 'nothing more than to come in from the cold — to belong',<sup>159</sup> the (previously) stateless.

Moving forward, there is a need for more expansive research to be conducted on the benefits of citizenship or the lack thereof among this population. For one, only those living on plantations were consulted in this study, excluding a sizeable demographic of Up-Country Tamils whose experiences of citizenship have not been reflected in these pages. As well, the questions designed to capture how this population has engaged the political process in the years following citizenship were perhaps too broad and either did not allow or overlooked activities that were nonetheless political but outside the scope of analysis and thus remained unnoticed. In a more general sense, there is need now to conduct comparative research on the experiences of citizenship among previously stateless persons

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<sup>157</sup> *UNHCR Special Report* (n 3).

<sup>158</sup> 'Over 1,500 articles were written about the Campaign and our materials reached up to 200 million people during the three weeks following the launch on 4 November 2014. Much of the focus was on the high-profile supporters who signed the High Commissioner's Open Letter, including Angelina Jolie, Desmond Tutu, Louise Arbour, Madeleine Albright and Phumzile Mlambo-Ngcuka. The ripple-effect of the Campaign has been far-reaching. The BBC and Al Jazeera created their own videos and infographics to explain statelessness, responding to public interest in the issue. Al Jazeera dedicated an episode of the programme "The Stream" to the Campaign': *2015 Campaign Update* (n 33) 1.

<sup>159</sup> *UNHCR Special Report* (n 3) 16.



beyond the Sri Lankan context, namely the previously stateless Urdu-speakers of Bangladesh, the many of Thailand's hill tribes long without citizenship, or the Makonde, the most recent tribe to be formally recognised as citizens by the government of Kenya. Such research will allow for a more holistic understanding of the experiences of previously stateless groups, provide for the identification of both regional and international trends and allow for countries to learn from one another's experiences both before and after citizenship has been provided. Lastly, such research will provide the requisite evidence to appraise the *#IBELONG* Campaign at a global level and inform future efforts to end statelessness such that the initial act of conferment is understood to be as equally important as the substance of citizenship and belonging thereafter.

## VI APPENDIX A

A *Questionnaire Survey*

Date:

Interview #:

Time:

Female or male interviewee:

Age:

Community:

1. Prior to the 2003 grant of citizenship, were you able to access government healthcare services? Yes [ ] No [ ]
  - a. Would you say your access to government healthcare services has improved as a result of the 2003 grant of citizenship? Yes [ ] No [ ] No Change [ ]
  
2. Prior to the 2003 grant of citizenship, were you able to access government education services? Yes [ ] No [ ]
  - a. Would you say your access to government education services has improved as a result of the 2003 grant of citizenship? Yes [ ] No [ ] No Change [ ]
  
3. Prior to the 2003 grant of citizenship, were you able to secure employment in the formal sector (legal employment) outside of the plantation? Yes [ ] No [ ]
  - a. Would you say your access to formal employment (legal employment) outside of the plantation has improved as a result of the 2003 grant of citizenship? Yes [ ] No [ ] No Change [ ]
  
4. Prior to the 2003 grant of citizenship, were you able to participate in the local, municipal, provincial, or national political process? Yes [ ] No [ ]
 

Would you say your ability to participate in the local, municipal, provincial, or national political process has improved as a result of the 2003 grant of citizenship? Yes [ ] No [ ] No Change [ ]
  
5. Overall, would you say your community has benefitted from the 2003 grant of citizenship? Yes [ ] No [ ] No Change [ ]
  
6. Would you say your community has achieved equality with the majority of Sri Lankan citizens as a result of the 2003 grant of citizenship? Yes [ ] No [ ]

VII APPENDIX B

A *Interview Guide*

Date:

Interview #:

Time:

Female/Male interviewee:

Age:

Community:

1. Prior to the 2003 grant of citizenship, were you able to access government healthcare services?
  - a. If so, how did you access these services and what was your experience with these services like?
  - b. *If not, what prevented you from accessing these services?*
2. Since the 2003 grant of citizenship, has your access to government healthcare services improved?
  - a. If so, what has your experience with these services been like?
  - b. *If not, what has prevented you from being able to access these services?*
  - c. How have you coped with any discrimination, hostility, and other barriers to access that has been encountered when trying to access these services?
3. Are there healthcare services available to you other than those provided by the government?
  - a. If so, what are they and how have you made use of these services?
4. Prior to the 2003 grant of citizenship, were you or your children able to access government education services?
  - a. If so, how did you or your children access these services and what was your experience with the education system like?
  - b. *If not, what prevented you or your children from accessing these services?*
5. Since the 2003 grant of citizenship, have your or your children's access to government education services improved?
  - a. If so, what has your or your children's experience with these services been like?
  - b. *If not, what has prevented you or your children from being able to access these services?*
  - c. How have you coped with any discrimination, hostility, and other barriers to access that has been encountered when trying to access these services?
6. Are there education services available to you or your children other than those provided by the government?

- a. If so, what are they and how have you or your children made use of these services?
7. Prior to the 2003 grant of citizenship, were you able to secure employment in the formal sector (legal employment) outside of the plantation?
  - a. If so, how did you secure this employment and what was your experience working in the formal sector like?
  - b. *If not, what prevented you from securing formal employment (legal employment) outside of the plantation?*
8. Since the 2003 grant of citizenship, has your ability to secure employment in the formal sector (legal employment) outside of the plantation improved?
  - a. If so, what has your experience working in the formal sector outside of the plantation been like?
  - b. *If not, what has prevented you from being able to secure employment in the formal sector (legal employment) outside of the plantation?*
  - c. How have you coped with any discrimination, hostility, and other barriers to access that have been encountered when trying to secure employment in the formal sector outside of the plantation?
9. Are there employment opportunities available to you other than those found in the formal sector?
  - a. If so, what are they and how have you pursued these opportunities?
10. Prior to the 2003 grant of citizenship, were you able to participate in the local (pradeshiya sabha), municipal, provincial, or national political process?
  - a. If so, how did you participate and what was your experience participating in the political process like?
  - b. *If not, what prevented you from participating in the political process?*
11. Since the 2003 grant of citizenship, has your ability to participate in the local (pradeshiya sabha), municipal, provincial, or national political process improved?
  - a. If so, how has it improved and what has your experience participating in the political process been like?
  - b. *If not, what has prevented you from being able to participate in the political process?*
  - c. How have you coped with any discrimination, hostility, and other barriers to access that have been encountered when trying to participate in the political process?
12. Overall, would you say that you or your community has benefited from the 2003 grant of citizenship?

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13. In your opinion, would you say your community has achieved equality with the majority of Sri Lankan citizens as a result of the 2003 grant of citizenship?
14. What is the biggest challenge currently facing your community, and what can be done to overcome this challenge?