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China/India: Residency rights of Tibetans residing in India; requirements for Tibetans to obtain and retain permanent residence in India

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Residency rights of Tibetans in India

While not a signatory to the 1951 Convention on the Status of Refugees (MPI 2 Sept. 2008; CTC 9 June 2009), India recognizes Tibetan refugees and allows them to legally reside in India (MPI 2 Sept. 2008). According to the 2008 U.S. Committee for Refugees and Immigrants (USCRI) *World Refugee Survey*, Tibetans in India "received government authorization closest to a residence permit." A 2008 report by the Migration Policy Institute (MPI), an independent think-tank that examines and evaluates migration and refugee issues (n.d.), provides the following information:

Tibetan refugees who came to India or were born in India prior to 1979 received Indian residence permits, which must be renewed yearly. Residence permits are required to obtain work, rent an apartment, open a bank account, and obtain identity documents, which are necessary for international travel. (MPI 2 Sept. 2008)

The British Broadcasting Corporation (BBC) states that Indian residence permits were previously granted to Tibetans easily, but now only the children of Tibetans who arrived in India prior to 1979 are able to receive residence permits automatically (17 Apr. 2008). According to the 2008 MPI report, "India has been far less welcoming of ... more recent [Tibetan] refugees" (2 Sept. 2008). Furthermore, the BBC reports that, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), many Tibetans are "unable to obtain residence permits once they reach India" (BBC 17 Apr. 2008; see also MPI 2 Sept. 2008) and face "lengthy tussles with officialdom" and must pay "bribes" (BBC 17 Apr. 2008). Similarly, Bibhu Prasad Routray states in a 2007 article published in *Refugee Survey Quarterly* that bribes are sometimes used by Tibetans to obtain residence permits (81).

In correspondence with the Research Directorate, the Secretary of the Department of Information and International Relations of the Central Tibetan Administration (CTA) in Dharamsala (9 June 2009) provided the following information on the residency rights of Tibetans living in India:

The Registration Certificate makes the Tibetan refugees living in India legal in the eyes of Indian authorities and [gives them] the right to enjoy all the privileges enjoyed by any Indian citizen except the right to vote and work in Indian government offices. (CTA 6 June 2009)

In contrast, Routray states the following:

Tibetans do not enjoy the same rights as Indian citizens, such as formal participation in politics or the ability to carry an Indian passport, but they are free to work and own property in India. Tibetans who arrived in India before 1979, though tolerated, lack any legally enforceable rights or

privileges. (Routray 2007, 80-81)

According to the USCRI, India does not permit refugees to work, but tolerates the informal employment of Tibetans (2008). With respect to land ownership, although refugees are not legally able to own land (USCRI 2008; CTC 9 June 2009), "Tibetan refugees often acquired land with Indians acting as proxies" (USCRI 2008). Both the USCRI and MPI note that specific areas, such as Dharamsala (MPI 2 Sept. 2008), are designated for Tibetan refugees (USCRI 2008; MPI 2 Sept. 2008). The MPI report notes that, in India, Tibetans have "relative autonomy over public education with some public supports" (ibid.). USCRI states in its 2008 *World Refugee Survey* that Tibetans can attend public school.

Requirements for Tibetans to obtain and retain permanent residence

A 26 December 1950 Indian regulation entitled "Regulating Entry of Tibetan National into India, 1950" states that

any foreigner of Tibetan nationality, who enters India hereafter [26 December 1950] shall -

(a) at the time of his entry into India obtain from officer-in-charge of the Police post at the Indo-Tibetan frontier, a permit ...;

(b) comply with such instructions as may be prescribed in the said permit; and

(c) get himself registered as a foreigner and obtain a certificate of registration. (India 26 Dec. 1950)

The CTA Secretary of the Department of Information and International Relations provided the following information on registration certificates:

Tibetan refugees who are living in India are required to obtain their Registration Certificate from the local Indian Police Authorities. ... The Registration Certificate needs to be renewed every year. The renewal of Registration is automatic. (CTA 6 June 2009; see also Routray 2007, 81)

A representative with the Canada Tibet Committee (CTC), an independent non-governmental organization that promotes public awareness of Tibetan issues (CTC n.d.), stated in correspondence with the Research Directorate that registration certificates must be renewed every year or twice a year (ibid. 9 June 2009).

According to the 2007 Routray article, when Tibetan refugees reach 18 years of age, they receive a one-year renewable residential certificate from the Union Ministry of Home Affairs (MHA) through the local police (82). In slight contrast, the CTC representative stated that Tibetans over the age of 16 years who were born in India are eligible for a registration certificate (9 June 2009).

Both Routray and the CTC Official stated that, when travelling in India, Tibetans must be in possession of their registration certificate (Routray 2007, 82; CTC 9 June 2009). The CTC Official noted that, with this document, there are still certain parts of India where Tibetans are not permitted to travel (9 June 2009). In order to travel internationally, Tibetan refugees living in India require an "identity certificate" (Routray 2007, 82; CTC 9 June 2009), which is renewable and valid for two years (Routray 2007, 82). According to the USCRI, India seldom issues international travel documents to long-term Tibetan refugees (2008). Moreover, the USCRI states that

[a]t the end of 2006, India instituted a policy that banned Tibetans who entered the country with valid visas and subsequently applied for residence permits from receiving international travel documents. Under certain conditions, however, it allowed Tibetan refugees to travel outside and reenter India. (2008)

According to the 2007 article by Routray, "[o]ver the last decade, the Indian government has tightened its control over allowing in more refugees from Tibet by making the process of providing residential certificates more difficult" (87). In a 2009 report, the United Kingdom (UK) Border Agency provides the following information from a 2006 report by the International Organization for Migration (IOM):

As of 1994 the Indian government has adopted an unofficial policy of denying registration certificates to Tibetans. In theory, Tibetans without registration cards can be arrested and deported back to China but in practice India allows unregistered Tibetans to remain in India for extended periods. Most Tibetans born in India choose not to apply for Indian citizenship on the basis that to do so would be an admission that they will never be able to return to Tibet. (UK 16 Apr. 2009)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

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Additional Sources Consulted

Oral sources: Attempts to contact an official with the Tibetan Parliament in Exile were unsuccessful. An official with the India High Commission in Ottawa was unable to provide information within the time constraints of this Response.

Internet sites, including: Amnesty International (AI), Asian Centre for Human Rights (ACHR), Asian Human Rights Commission (AHRC), Central Tibetan Administration (CTA), European Country of Origin Information Network (ecoi.net), Fédération internationale des ligues des droits de l'homme (FIDH), Free Tibet, Freedom House, Human Rights Watch (HRW), Government of India Ministry of Home Affairs, Indo Tibetan Border Police Force (ITBP), Integrated Regional Information Networks (IRIN), Internal Displacement Monitoring Centre (IDMC), International Migration Organization (IMO), Minority Rights Group International (MRGI), Tibetan Centre for Human Rights and Democracy (TCHRD), Tibet Justice Center, Union Public Service Commission (UPSC), United States (US) Department of State.

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