

Tibetan Refugees in India: The Challenges of Applying for Indian Citizenship

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I. Introduction

Since the Dalai Lama fled Chinese-occupied Tibet in 1959, India has offered refuge to roughly 130,000 Tibetans in the ensuing 60 years. With the help of then-Indian Prime Minister Jawaharlal Nehru, settlements for these Tibetans were established in the old British hill station of McLeod Ganj, Dharamshala, in the foothills of the Himalayas, as well as in remote regions elsewhere in India. Shortly thereafter, the Dalai Lama and his retinue established the Tibetan Government in Exile (TGIE), known today as the Central Tibetan Administration (CTA). The settlements continued to grow with periodic and varying levels of support from the Indian government and non-governmental organizations. Today, many Tibetans—whatever their precise legal status—continue to reside in these settlements dispersed across the subcontinent, promote human rights, exercise such limited self-determination as is available in exile, and persist as a community in exile with a distinctive history, religion, culture, language, and national identity.

Despite many qualifying as refugees¹ under international law, all Tibetans in India are viewed in policy and practice as “foreigners.” India’s legal obligations toward most Tibetans residing in India are limited to customary international law obligation of *non-refoulement*, that is, they may not be returned to a state in which they face persecution. Tibetans in India are required to have registration certificates (RCs), without which their presence is technically illegal, although the Indian government enforces the law intermittently and unevenly in this regard.² RCs must be regularly renewed and serve as identity documents.³ They are also a prerequisite for obtaining an identity

¹ I use the term ‘refugees’ here for convenience, but only a trivial number of Tibetans enjoy that legal status. Alternative terms include: Tibetans-in-Exile and Tibetans in India.

² Tibet Justice Center, “Tibet’s Stateless Nationals III: The Status of Tibetan Refugees in India,” Boston University, 2014.

³ Tibet Justice Center, *supra* note 2.

certificate (IC), a document issued by the Indian government that permits limited international travel to those countries that will recognize an IC in lieu of a passport as a valid travel document.⁴



The Tibetan Parliament-in-Exile building in Dharamshala. It is located inside the Central Tibetan Administration complex off Jogiwara Road.

According to the Secretary of Bureau of the Dalai Lama, Tibetans born in India are eligible to obtain an RC after graduating from high school.⁵ Those with RCs are guaranteed certain fundamental rights including: right to elementary education, right to lease land for 20 years through the Central Tibetan Relief Committee, right to obtain benefits such as bank loans and driving licenses (but only with the possession of a valid RC), right to promote and preserve Tibetan culture, right to reside in classified Tibetan settlements, right to travel in certain areas, and right to work in certain forms of employment.⁶

However, it is undeniable that acquiring Indian citizenship provides rights that Tibetans in India otherwise do not enjoy as foreign-

⁴ Tibet Justice Center, "Tibet's Stateless Nationals III: The Status of Tibetan Refugees in India," Boston University, 2014.

⁵ Immigration and Refugee Board of Canada. "India: Residency rights of Tibetan refugees, including the requirements and procedures for Tibetan refugees to obtain a Registration Certificate; rights to employment, education, health care, and other social services; consequences for Tibetans without a Registration Certificate, including instances of refoolment," Refworld, January 2, 2015.

⁶ Immigration and Refugee Board of Canada, *supra* note 2.

ers, including but not limited to all freedoms provided in the Indian Constitution, equality of opportunity in matters of public employment, and full legal, political, and social privileges in India.⁷ As foreigners, Tibetans have been unable to enjoy the many privileges of citizenship, including voting, benefit from India's limited social safety net, the right to travel, either domestically or internationally, and engage in a host of activities and forms of employment.⁸ This created a push among some in the Tibetan community to challenge the Indian Government's refusal to grant citizenship to Tibetans born in India between January 26, 1950 and July 1, 1987, despite their clear eligibility under the Citizenship Act.⁹

In a groundbreaking decision issued in March 2017, the Indian Ministry of External Affairs (MEA) accepted a Delhi High Court ruling from September 2016 to allow Tibetan refugees born in India between January 26, 1950 and July 1, 1987 to apply for Indian citizenship and hence receive Indian passports.¹⁰ The general reaction amongst Tibetans to this policy shift has been ambivalent: while many Tibetans are inclined to apply for passports to receive the benefits associated with citizenship, others hesitate because of a concern that large numbers of Tibetans becoming Indian citizens will gradually dilute their national and ethnic identity as Tibetans.

The present article describes the obstacles that many Tibetans in India face when seeking to vindicate their rights owed to them as *de jure* Indian citizens.¹¹ These challenges include political and governmental hurdles, ineligibility under the Citizenship Act, exorbitant lawyers' fees, delays in receiving passports, lack of knowledge of substantive benefits, and criticism from others in the Tibetan community. In many cases, these challenges essentially serve as dissuading factors, as Tibetans initially interested in applying for citizenship fail to do so as a result.

Prior to conducting research for this topic, preliminary fieldwork was carried out in December 2017 and January 2018 in Dharamshala and New Delhi. The focus was on examining whether or not the Delhi High Court ruling allowed Tibetans in India to live more sustaina-

⁷ Tibet Justice Center, *supra* note 4.

⁸ Tibet Justice Center, *supra* note 4.

⁹ Citizenship (Amended) Act, No 5 of 1986; INDIA CODE (1986).

¹⁰ Lobsang Wangyal v. Union of India, W.P. (C) 3539/2016 (High Court of Delhi) (India), September 22, 2016.

¹¹ This article was compiled chiefly after conducting research and interviews with Tibetans in Dharamshala and New Delhi in May and June of 2018. Indians knowledgeable about the Tibet issue were also interviewed, including one eminent constitutional lawyer and two prominent journalists and experts on Tibetan affairs. The Dharamshala-based Tibetan Legal Association provided additional research assistance and methodological advice during the drafting of this article.

bly. "Sustainably," in this case, specifically referred to the United Nations' Sustainable Development Goals 10 (Reduced Inequality) and 16 (Peace, Justice, and Institutions).

II. Methodology

General Overview

The field research cited above was augmented by secondary literature and legal research, as well as subsequent interviews with key participants such as officials of the CTA. The research was aimed at providing a comprehensive picture of the challenges that Tibetans in India face when applying for Indian citizenship.

The first part of the fieldwork involved identifying an organization, based in Dharamshala, that works closely with Tibetans in India and their legal rights. The second part comprised a series of interviews conducted with Tibetans and Indians, and sought to interview people from different ends of the Tibetan refugee spectrum and others who may have varying opinions and experiences to share. The next phase consisted of transcribing these interviews and analyzing the interviewee responses for any key trends and correlations.

The research was conducted in collaboration with the Tibetan Legal Association (TLA). TLA is an organization of Tibetan lawyers in India that handles a wide range of cases for Tibetans across the country. Its president, Lobsang Dakpa, is a member of the Tibetan Parliament-in-Exile.

Fieldwork in Dharamshala and New Delhi

The entirety of the fieldwork was carried out in Dharamshala and New Delhi, as both regions are home to some of the largest Tibetan populations in India. Most interviews with Tibetans in New Delhi took place at Majnu-ka-tilla, a Tibetan settlement located in North Delhi. In total, 25 people were interviewed: six Tibetan politicians, 16 everyday Tibetans, two Indian journalists and experts on the Tibet issue, and one Indian constitutional lawyer.

Interviews

The interviews took place for a period of two weeks in May and early June of 2018. Only adults of at least 18 years of age were selected to participate in the semi-structured interview format, as the citizenship issue primarily comes into play for Tibetans who are economically

active, in college, or unemployed. Prior to the commencement of interviews, interview subjects were promised full anonymity and were provided with a description of this project and its goals to help establish a sense of legitimacy and trust. Because of this, all of the testimonies provided in this article reference the unnamed knowledgeable interviewees.

The post-interview process consisted mainly of making verbatim transcripts of each audio recording. Though a fairly-time consuming process, doing so greatly facilitated the ability to identify trends amongst the responses and analyse what was said by each interviewee.

III. Obstacles to Exercising Citizenship Rights

Generally, Tibetans in India have faced recurrent obstacles when applying for Indian passports. These include: a lack of knowledge of procedures by which to obtain a passport (which, according to them, stems from a lack of direction from the Indian government), exorbitant lawyers' fees, ineligibility under the Citizenship Act, delays in receiving Indian passports despite successful applications, lack of knowledge of substantive benefits (provided for Indian citizens *and* foreigners in India), and criticism from many in the Tibetan community of India.

Ineligibility under the Citizenship Act

The Citizenship Act provides that Tibetans born in India between January 26, 1950 and July 1, 1987, *are* citizens and thus eligible to apply for Indian passports.¹² But provision is legacy of prior and now superseded law, applied retroactively. It does not provide a path to citizenship for Tibetans born elsewhere (typically Tibet), or for those born after July 1, 1987.

Article 11 of the Indian Constitution gives Parliament the authority to regulate citizenship and naturalization.¹³ Pursuant to that delegated power, Parliament enacted the Citizenship Act of 1955, which, as amended by the Citizenship Acts of 1986 and 2003, specifies how a person may acquire and lose Indian citizenship subsequent to the effective date of the Constitution. Section 3 of the Citizenship Act governs citizenship by birth, and states that every person born in India is a citizen by birth if he/she meets the following criteria:

¹² The Citizenship Act, No. 57 of 1955; INDIA CODE (2003).

¹³ The Constitution of India, of 1950, Government of India (2007).

- Born between January 26, 1950 and July 1, 1987; or
- Born between July 1, 1987 and the commencement of the Citizenship (Amendment) Act, 2003 with at least one parent who is a citizen of India at the time of his/her birth
- Born on or after the commencement of the Citizenship (Amendment) Act, 2003, with both parents being citizens of India or one parent a citizen of India and the other not an illegal migrant.¹⁴

Until very recently, the policy of the GOI was not to recognize citizenship for Tibetans, even those who qualified under the Citizenship Act. The provisions of § 3 of the Citizenship Act of 1955 appear to offer at least a portion of Tibetans in India access to citizenship.¹⁵ However, it has been extremely difficult for Tibetans in India to acquire passports and prove their citizenship statuses. This inability of Tibetans, even those born in India between 1950 and 1987, to receive citizenship has continued, despite various high court rulings entitling them to citizenship. A few of the most prominent high court decisions include *Namgyal Dolkar v. Government of India Ministry of External Affairs*, *Tenzin Choephag Ling Rinpoche v. Union of India*, *Phuntsok Topden v. Union of India*, and *Lobsang Wangyal v. Union of India*.¹⁶ Furthermore, the GOI has continued to refuse to apply these holdings to anyone other than the named plaintiff. As a result, many in the Tibetan community have remained foreigners in India.

Political and Governmental Hurdles

Out of the 300-plus Tibetans who have received Indian passports to date, a select few have been through high-profile cases. Namgyal Dolkar is one such example, and the first Tibetan citizen of India to pursue her right to a passport under the earlier Citizenship Act.¹⁷ In an earlier interview, Dolkar—an ethnic Tibetan born in India in April

¹⁴ The Citizenship Act, *supra* note 11.

¹⁵ Tibet Justice Center, "Tibet's Stateless Nationals III: The Status of Tibetan Refugees in India," Boston University, 2014.

¹⁶ *Namgyal Dolkar v. Government of India Ministry of External Affairs*, W.P. (C) 12179/2009 (High Court of Delhi), *Tenzin Choephag Ling Rinpoche v. Union of India*, 15437/2013 (High Court of Karnataka), *Phuntsok Topden v. Union of India*, W.P.(C) 1890/2013 (High Court of Delhi), and *Lobsang Wangyal v. Union of India*, W.P.(C) 3539/2016 (High Court of Delhi).

¹⁷ *Namgyal Dolkar v. Government of India Ministry of External Affairs*, *supra* note 15.

1986—said she fought to obtain Indian citizenship because as a foreigner, she was denied many opportunities, including a position as a lecturer in English literature.¹⁸ Without Indian citizenship, she was not eligible to take the exam. Upon applying for a passport, she was warned that persisting with her efforts to attain citizenship would land her in prison.¹⁹

Dolkar was the first Tibetan to receive indicia of her Indian citizenship by way of court proceeding. But the process was particularly laborious. Dolkar explained that a lawyer acting on her behalf filed a petition in the High Court of Delhi stating that Dolkar, an ethnic Tibetan born in India in April 1986, had sought an Indian passport and argued that she qualified as an Indian citizen by birth under § 3(1)(a) of the Citizenship Act of 1955. The High Court sided with Dolkar in its decision, and ordered the Government of India to pay her a sum of 5000 rupees in one month. However, it took five months for this payment to be made, and several more months for Dolkar to actually receive an Indian passport.

Furthermore, Roxna Swamy, Dolkar's attorney, said that the MEA did not act on her client's application for a passport for over a year and a half, despite several petitions brought forth by Swamy to the High Court of Delhi.²⁰ At one point, the MEA attempted to redirect the application to the Ministry of Home Affairs (MHA), stating that the latter was the branch that actually establishes policy in this regard. After more than a half dozen adjournments at the request of the Solicitor General, the High Court of Delhi finally issued its decision in Dolkar's favor.²¹

In the end, while Dolkar did successfully receive an Indian passport, her case highlights key governmental and institutional hurdles that *de jure* Tibetan citizens face in the quest to vindicate their rights as citizens. Dolkar is now a member of the Tibetan Parliament-in-Exile and President of the Gu Chu Sum (Political Prisoners of Tibet) Movement.

Even after the change in GOI policy, interviewees describe facing hurdles from the Indian Government, in particular, the MEA once again, which further complicates the process. In June 2017, the Regional Passport Office (RPO) in Bangalore released a ruling stating that Tibetans who apply for Indian citizenship must abide by the following four criteria:

¹⁸ Tibet Justice Center, "Tibet's Stateless Nationals III: The Status of Tibetan Refugees in India," Boston University, 2014.

¹⁹ Tibet Justice Center, *supra* note 14.

²⁰ Tibet Justice Center, *supra* note 14.

²¹ Tibet Justice Center, *supra* note 14.

- 1) Tibetans must surrender their RC and IC cards.²²
- 2) Tibetans will be prohibited from returning to their original refugee settlements.
- 3) Tibetans must present a written paper stating renouncement of CTA benefits.
- 4) Tibetans must also present a written paper stating renouncement of benefits received from the RC and IC cards.²³

The above RPO ruling made it extremely difficult for those Tibetans in India seeking to apply for citizenship and discouraged many from doing so due to its second provision, which prohibited Tibetans with Indian passports from returning to their original refugee settlements. One Tibetan parliamentarian voiced disapproval when asked about this and mentioned an instance when she met a young working Tibetan woman who needed Indian citizenship to pursue advancement in her job.²⁴ The woman was unable to apply due to the RPO ruling because she was the only child in her family and could not afford to live outside her refugee settlement while providing support for her parents back home.²⁵

The RPO was challenged as unconstitutional and in November 2017, the Delhi High Court, in *Tamding Dorjee v. Government of India Ministry of External Affairs*,²⁶ upheld three out of the four provisions, but declared unconstitutional the provision prohibiting Tibetans from returning to their original refugee settlements. Dorjee filed the petition when he had applied for a passport but was denied said facilities by way of an RPO Shimla ruling which prescribed the same four conditions as the RPO Bangalore's statement above.²⁷

Since the Tamding Dorjee case ruling, local offices have, for the most part, stopped enforcing the above requirement. This has greatly reduced concerns amongst Tibetans, many of whom found the RPO Bangalore's second criterion to be especially problematic.

However, some Tibetans have also taken issue with the third provision of the RPO Bangalore ruling, which states that Tibetans who

²² It should be noted that some, but not all, de jure Tibetan citizens of India possessed the RC and IC documents before it became clear that under the court ruling they are citizens.

²³ *Tamding Dorjee v. Govt of India Ministry of External Affairs*, W.P. (C) 7577/2017 (High Court of Delhi) (India), November 7, 2017.

²⁴ Interview with a member of the Tibetan Parliament-in-Exile, Dharamshala, May 28, 2018.

²⁵ Interview with a member of the Tibetan Parliament-in-Exile, *supra* note 24.

²⁶ *Tamding Dorjee v. Govt of India Ministry of External Affairs*, *supra* note 23.

²⁷ *Tamding Dorjee v. Govt of India Ministry of External Affairs*, *supra* note 23.

apply for Indian citizenship must renounce their CTA benefits. According to them, many Tibetans who receive Indian citizenship are financially unable to sustain themselves during the initial few months after receiving a passport, and hence require continued benefits from the CTA until they are able to independently support themselves.²⁸

When mentioning this request to Tibetan parliamentarians, the majority of them were at odds with this viewpoint. One parliamentarian disagreed with the argument that Tibetans – who apply for Indian citizenship – should be allowed to surrender the benefits they receive from CTA only after reaching a certain level of financial stability.

No, because the Indian government has provided different lands for Tibetans to stay in. Whether you are rich or poor, whatever you got before remains what it is. The CTA says that the land provided by the Indian government was given only for Tibetan refugees! So this automatically becomes irrelevant for Tibetans who become Indian citizens, and they should only be able to receive the benefits they receive from the Indian government. Hence, the refugee-provided land should only be enjoyed by refugees and not citizens.²⁹

From the interview testimonies, it does not appear as if the third provision of the RPO Bangalore ruling will change anytime soon.

Exorbitant Lawyers' Fees

Prior to the change in the Government of India's policy on Tibetans in India and Indian citizenship, the only Tibetans able to secure an Indian passport were those who had the financial means to hire a lawyer. Hiring a lawyer, though expensive, was seen as a surefire way to obtain Indian citizenship by way of direct court appeal. Indian lawyers, in general, are extremely expensive. Some Indian lawyers who have brought cases on behalf of Tibetans do not charge significant fees. But there are very few such lawyers, and the majority charge more than most Tibetans can afford. Today, poverty and/or limited financial mobility prevents some Tibetans who are de jure citizens from vindicating their citizenship, a situation that may even be unconstitutional as the Indian Constitution does not draw citizenship distinctions based on wealth.

²⁸ Interviews with a number of everyday Tibetans who had received Indian passports, Dharamshala, May 25–29, 2018.

²⁹ Interview with a member of the Tibetan Parliament-in-Exile, Dharamshala, May 27, 2018.

In the previously-mentioned *Namgyal Dolkar v. Government of India Ministry of External Affairs* court case, Dolkar hired a lawyer who argued that Tibetans are eligible for citizenship as per the amended Citizenship Act of 1986. The Act was an inclusive framework under which every person born in India on or after January 26, 1950, but prior to the commencement of the 1986 Act on July 1, 1987, is automatically a citizen of India by birth.³⁰ After the successful court appeal, Dolkar said she hoped her case would pave the way for other Tibetans struggling to establish their identity in India.³¹

One interviewee said that, in his experience, a non-trivial number of the Indian lawyers purporting to provide the necessary assistance engage in fraudulent practices such as overcharging their clients or misleading them about the process and associated expenses.³² To him, having a well-informed friend is sufficient to help one navigate the complexities of receiving an Indian passport.

Furthermore, the very thought of hiring a lawyer for assistance, paying the exorbitant lawyer fees, and maneuvering one's way towards citizenship is viewed as an arduous process by many Tibetans, and thereby presents itself as a major psychological hurdle for those seeking to apply. Those with little educational background may also hire lawyers needlessly, for they can first seek advice from Tibetans who have experience with the process. One interviewee expressed his desire to see Tibetans who have already gone through lawyers and received citizenship to offer their services either for free or for a very low cost to others seeking to apply.

*Some Tibetans who have already gone through lawyers should join hands with society and offer their services – because they have gone through the process and know the mill – to those looking to receive Indian passports. I think this concept of hiring a lawyer to do a job like this is a self-created problem.*³³

The testimonial excerpt above suggests that more cooperation is needed within the Tibetan community. In this case, applying for citi-

³⁰ *Namgyal Dolkar v. Government of India Ministry of External Affairs*, W.P. (C) 12179/2009 (High Court of Delhi), *Tenzin Choephag Ling Rinpoche v. Union of India*, 15437/2013 (High Court of Karnataka), *Phuntsok Topden v. Union of India*, W.P.(C) 1890/2013 (High Court of Delhi), and *Lobsang Wangyal v. Union of India*, W.P.(C) 3539/2016 (High Court of Delhi).

³¹ Anand Bodh, "25-yr-old First Tibetan to be Indian Citizen." *Times of India*, 20 Jan. 2011, <https://timesofindia.indiatimes.com/india/25-yr-old-first-Tibetan-to-be-Indian-citizen/articleshow/7323090.cms>

³² Interview with an Indian journalist and expert on the Tibet issue, New Delhi, May 21, 2018.

³³ Interview with an everyday Tibetan, New Delhi, May 24, 2018.

zenship can be such an important yet daunting task for some Tibetans that it would be beneficial for those who have already experienced the process to reach out to those interested in applying but unsure of how best to approach it.

Additionally, from the testimony of a high-ranking CTA official, Tibetans who apply for citizenship seem to be viewed as naturalized citizens rather than natural citizens, which would explain the need to hire a lawyer.

Those who have applied for citizenship through the high court, logically they have to hire the lawyers also. Because you are not a natural citizen, you are a naturalized citizen. Therefore, without applying you can't get it. Then you have to prove the many documents also. So on the basis of that, many of them apply and get citizenship. It is individuals' choice. I think, so many of them have gone through on the basis of the announcement.³⁴

If true, this statement would be at odds with one of the provisions outlined by the Citizenship Act, which declares any person born in India between January 26, 1950 and July 1, 1987 to be a *citizen by birth*.³⁵

Delay in receiving passport

Some Tibetans have experienced delays in receiving their passports despite submitting their applications without any mistakes. A few interviewees mentioned many Tibetans who applied for Indian passports but did not receive these passports on time, despite following all the rules, regulations, and procedures properly.³⁶ Occasionally, some Tibetans paid bribes in order to accelerate their passport issuance. As a result of these perceived obstacles, many of the applicants withdrew their applications and do not plan on applying for citizenship again.

Tibetans are not the only ones who experience these delays; many other Indian passport applicants across the country also face them. This is because there is no accountability amongst government offices that handle the processing of the passport applications. One Tibetan, who recently received his Indian passport, had the following to say about his personal experience of navigating the process.

³⁴ Interview with a high-ranking CTA official, Dharamshala, May 27, 2018.

³⁵ The Citizenship Act, No. 57 of 1955; INDIA CODE (2003).

³⁶ Interviews with several everyday Tibetans, Dharamshala and New Delhi, May 19 – June 2, 2018.

Though I am glad I have become an Indian citizen, I do not know if I would go through the process again, just because of all the hassle and time that it took for me to finally receive my passport. From the time I submitted my application to the time I actually got the passport, it was almost one year. This put me in somewhat of a state of panic because I had a few international traveling commitments that I could not honour as a result.³⁷

It seems as though the delays in receiving a passport are just extensions of the delays Tibetans go through when applying for RCs and ICs as well. In Karnataka, for example, RC renewals—in some cases—are dragged out for months, and a bribe is often necessary to expedite the process.³⁸ The IC application procedure has become more complex in recent years, with delays of over two years becoming increasingly commonplace and posing severe difficulties for Tibetans as a result. In an earlier interview, one respondent mentioned a bright Tibetan student who almost lost a scholarship offer due to the IC application taking so long.³⁹ Another Tibetan high school student lost an opportunity to study as a Pestalozzi Scholar in the United Kingdom due to her inability to acquire an IC in time.⁴⁰

Until roughly four years ago, the process of applying for a passport or even RC/IC consisted of filling out and submitting manual paper documents. This would result in long lines at regional passport offices and unnecessary complications brought about by missing papers and files. Over the last four years however, thanks to a basic change in the approach of the Indian Government, many of these processes have been digitized to the point where one can apply for a passport or identity document online today. Many Tibetans have strongly approved the digitization of application procedures, stating that it has ameliorated some of the aforementioned issues that arose from manually submitting hard paperwork.⁴¹

Lack of Knowledge of Substantive Benefits

One of the largest challenges that Tibetans voiced when deciding whether or not to apply for citizenship was their overall lack of knowledge. Many Tibetans stated that they were unsure as to what exact rights they currently had as “foreigners” in India, and what

³⁷ Interview with an everyday Tibetan who recently received Indian citizenship, Dharamshala, May 30, 2018.

³⁸ Tibet Justice Center, “Tibet’s Stateless Nationals III: The Status of Tibetan Refugees in India,” Boston University, 2014.

³⁹ Tibet Justice Center, *supra* note 38.

⁴⁰ Tibet Justice Center, *supra* note 38.

⁴¹ Interviews with several everyday Tibetans, Dharamshala and New Delhi, May 19 – June 2, 2018.

rights they would have were they to formally vindicate their citizenship in court. They expressed a desire for a central database that listed this information for them.⁴² Several Tibetans who were ambivalent faced a similar predicament, unsure of the comparative pros and cons of a decision either way.⁴³

One interviewee had quite a bit to say when it came to the lack of overall knowledge among the Tibetan community.

I think the lack of knowledge of procedures is the main hurdle. And there I feel that among Tibetans, if there is a kind of self-help or support group amongst Tibetans who are knowledgeable and who offer this help, then I don't think this hurdle should exist. There are many Tibetan lawyers and organizations out there. But unfortunately, Tibetan society—like several other societies in crisis—is comprised of many divided minds (people are for and not for citizenship). In such societies, it is normal that people will not help the one who wants to apply. Those people will put hurdles in their way, which makes it doubly difficult.⁴⁴

Once again, community support is the main theme here. Seeking help from Tibetans and officials who are knowledgeable about the application process, as well as about entitlements with and without citizenship, can make a substantial difference for those in two minds about whether or not to apply for a passport. This creates a simple yet achievable goal, according to one respondent.

The goal of these community groups should not be to try and convince Tibetans in India to apply for citizenship. Rather, these groups should help Tibetans who are on the fence understand whether one choice is the right one for them, over another.⁴⁵

Criticism from many in the Tibetan community

Tibetans who wish to take advantage of formal Indian citizenship by applying for Indian passports or otherwise often face criticism from some in the Tibetan exile community. While receiving Indian citizen-

⁴² To help to inform Tibetans about the relevant procedures, in September 2018 I created a website (www.passportorrc.com) that offers information on the rights conferred by Indian citizenship and those rights (if any) that 'foreigner' status confers.

⁴³ Interviews with several everyday Tibetans, Dharamshala and New Delhi, May 19 – June 2, 2018.

⁴⁴ Interview with an Indian journalist and expert on Tibet, New Delhi, May 22, 2018.

⁴⁵ Interview with an everyday Tibetan, Dharamshala, May 26, 2018.

ship confers political and social rights, including the right to run for political office, a significant portion of the Tibetan community opposes Indian citizenship because they fear that, over time, it will lead to the atrophy of Tibetan nationality or the continuing objective of the CTA to vindicate the right of all Tibetans to self-determination. As such, these Tibetans often consider applying for Indian citizenship an act of betrayal towards the entire Tibetan cause and fight for freedom. For Tibetans with this mindset, it remains preferable for Tibetans in India to remain “foreigners.”

One Tibetan who advises against opting for citizenship, remarked:

Somehow, an increasing number of Tibetans desire certain rights. But if taking up Indian citizenship and benefiting from it continues, then it may become a trend in the community. The natural selfish nature of humans will come out. This is applicable to all struggles, whether it is the Tibetan freedom struggle or Indian freedom struggle, French or Russian revolutions, etc. You will see that people who maintained their resolve through difficult times were always part of the minority. Large portions of the population were looking at the trends, and went along with where the wind was blowing.

Therefore, today, when His Holiness the Dalai Lama is alive, when there is still hope, most of us still remain steadfast in our belief to our Tibetan rights. But in the future, it may become a trend to take up Indian citizenship and fall into this trap! This could really weaken the Tibetan struggle.⁴⁶

These views are shared by many Tibetans in India, who fear that securing citizenship in India undercuts the ultimate goal of returning to a free Tibet in the future. At the same time, there are some who believe that Tibetans who apply for citizenship should receive praise and not be subject to a backlash. One Indian constitutional lawyer, who has fought many cases on behalf of Tibetans, was amongst the few who support this option.

Overall, the Tibetan community and CTA should be happy at the fact that the Indian Government, judiciary, and Indian society want to make Tibetans a part of India...because while Tibetans may have lost one huge piece of their homeland, they have found another. They are part of this land... just because you simply take up Indian citizenship does not mean you are forsaking your own individual identity and taking up a common identity. Tibetans will still be able to preserve their Tibetan identity. They will still observe and preserve the Tibetan way of life. They will still be able to preserve their Tibet-

⁴⁶ Interview with a Tibetan activist, Dharamshala, May 30, 2018.

*an heritage. But by choosing to become Indian citizens, they are only striving to attain a few common ideals.*⁴⁷

However, Tibetans who share the aforementioned belief are in the minority and are outnumbered by those with anti-citizenship sentiments. As a result, some in the Tibetan-in-Exile community do not opt for Indian citizenship due to underlying apprehensions of a backlash they may face from others in the community. This is not to say that prospective citizenship applicants *will* be subject to criticism, but rather that they believe there is a chance of this happening.

IV. The Central Tibetan Administration's Stance on Citizenship

It is important to discuss the CTA's stance on the Indian citizenship issue, as it is the primary voice for Tibetans in India. The CTA has officially adopted a neutral position on this development. Its president or *Sikyong*, Dr. Lobsang Sangay, has stated that the decision to apply for Indian or any other country's citizenship is a personal choice.⁴⁸ During prior interview with me, he emphasized his view on behalf of the CTA.

*As the CTA, we cannot say you cannot apply for Indian citizenship because it is the law. To advocate against citizenship would be illegal. But we do not encourage Tibetans to apply either because the responsibility of CTA is to maintain the Tibetan cause and Tibetan movement, and to look after Tibetans in India. Hence we have taken this stance, where applying for citizenship is an individual choice.*⁴⁹

However, the CTA seems to be applying double standards to this issue. On one hand, it has long been in favour of Tibetans living abroad adopting citizenship of their respective host countries, especially in the case of Western countries (United States, Germany, United Kingdom, etc.).⁵⁰ On the other hand, a few of its members have veered away from *Sikyong* Dr. Sangay's statement and do not favour Tibetans in India adopting Indian citizenship. One member of the Parliament-in-Exile had the following to say:

⁴⁷ Interview with an Indian constitutional lawyer, New Delhi, May 23, 2018.

⁴⁸ Dr. Yeshe Choedon, "The Unintended Consequences of India's Policy on Citizenship for Tibetan Refugees," *Indian Defence Review*, March 9, 2018, <http://www.indiandefencereview.com/the-unintended-consequences-of-indias-policy-on-citizenship-for-tibetan-refugees/>

⁴⁹ Interview with *Sikyong* Dr. Lobsang Sangay, CTA, Dharamshala, December 23, 2017.

⁵⁰ Dr. Yeshe Choedon, *supra* note 48.

The very purpose of us coming to India is not to settle in India and become a permanent citizen. The main purpose of our coming over to India is to do something for our own nation. Because India, being a very well-developed and democratic country, has given us all the rights. We can thus do everything that we need to do, especially for Tibet...so we are very fortunate to be in a country like India where we can do a lot of things. So why become an Indian citizen?⁵¹

A few other parliamentarians who were interviewed also echoed similar sentiments to those above, stating that Tibetans have virtually everything they need in India, and should thus be satisfied with what they have been so generously provided by the Indian government. One parliamentarian in particular showered the GOI with praise, and said that there is no need for Tibetans to apply for Indian citizenship because few countries rival India when it comes to exemplary treatment of foreigners.

When we are free in India, there's no point in making Indian citizenship. We are totally taken care of by the Government of India. They are very grateful people. There is no such country in the world who has taken care of foreigners like India...so those who really want to take this citizenship, are not very far-sighted. Those who think of day-to-day individual activities are the people who take up citizenship for these benefits and rarely think of the greater Tibetan cause.⁵²

The differences in opinion between CTA members has indicated to some that the administration unofficially attempts to discourage Tibetans in India from applying for citizenship. One Tibetan, not an Indian citizen and based in Dharamshala, raised her suspicion in concurrence with this belief, stating that "there is some social construct in which CTA is trying to discourage Tibetans from applying for Indian citizenship."⁵³ If true, this represents another hurdle that Tibetans in India would face when applying for citizenship.

V. Conclusion

From excessive lawyers' fees to political and governmental hurdles, to criticisms from other members of the community, Tibetans face challenges that stand as serious obstacles to securing Indian citizenship. Those born in India between January 26, 1950 and July 1, 1987

⁵¹ Interview with a member of the Tibetan Parliament-in-Exile, Dharamshala, May 28, 2018.

⁵² Interview with a member of the Tibetan Parliament-in-Exile, *supra* note 51.

⁵³ Interview with an everyday Tibetan, Dharamshala, May 26, 2018.

are citizens by dint of birthright citizenship. However, Tibetans born in this timeframe do not have the full ability to exercise the de jure rights to which all Indian citizens are entitled, including securing a passport for travel.

India has been an indispensable host to the Tibetans residing in exile. From helping establish settlements to schools, the Indian government has played a significant role in allowing the Tibetans to preserve their cultural identity and ways of life. But on the legal front, Tibetans in India continue to face challenges when applying for citizenship, to the point where many are discouraged by the obstacles they encounter. There have been numerous High Court rulings that confirmed what the Citizenship Act already stated, and yet for decades the GOI has refused to permit de jure Tibetans from directly securing citizenship. Given that high court verdicts based on the constitutionality of an act of parliament—in this case, the Citizenship Act—have jurisdiction across the country, this could signify a potential disconnect between law establishment and law enforcement.

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