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**DIASPORA AND MIGRATION:
CULTURAL IDENTITY, CITIZENSHIP
AND
POLICY CHALLENGES**

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Re-Imagining Citizenship: The Dilemmas Facing The Tibetan Diaspora In India

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Abstract: *While most refugee communities aspire for citizenship in the host country, the Tibetan refugees in India have traditionally desisted from assimilation and citizenship. Under Indian law, anyone born between January 26, 1950 and July 1, 1987 on Indian soil is automatically an Indian citizen. This was quoted to include Tibetans by a Delhi High Court in its decision on 22 December 2010. Through extensive interviews and interactions with Tibetans in various Tibetans settlements in India, as well as a review of secondary data, this paper tries to understand the challenges that citizenship brings to one of the most successful nations in exile.*

INTRODUCTION:

In most discussions pertaining to the theme of refugees and citizenship, the desire of the refugees to aspire for citizenship in the host country is often a 'given'. However, there are a few refugees that as a community have traditionally desisted from assimilation and citizenship in the host country. This paper focuses on one such diaspora - the Tibetan refugees in India. It specifically aims a) to study how the Tibetan community in India collectively constructs and maintains issues pertaining to identity, nationalism and transnationalism in the diaspora; b) to understand the varied voices among the Tibetan refugees pertaining to a desire for citizenship and its implications for the larger Tibetan community in India and the very notion

of 'Tibetanness'; and c) to examine the issue of citizenship concerning those Tibetans who have migrated to Europe and America.

The paper begins by tracing the institution of citizenship to the birth of the nation state. It then goes on to demonstrate how the contours of citizenship become more nuanced with the fluidity of the strict compartmentalisation of people into nation states. The monopoly of the nation state is particularly challenged with the tremendous rise in migration, transnationalism and refugees in the twentieth century. Though extensive interviews and interactions with Tibetans in various Tibetans settlements in India, as well as a review of secondary data, this paper tries to understand how a nation can be constructed and sustained in the diaspora. It is particularly concerned with the challenges that citizenship brings to one of the most successful nations in exile.

NATION AND NATION STATE AS COLONIAL IMPORTS

There are very few terms in political sociological discourse today that presents more conceptual complexity and ambiguity than 'nation'. Even its very definition invokes no unanimity. At one end of the spectrum, the ethnic group is the common point of origin for the nation, while at another; it has been subscribed that a nation need not be circumscribed within a single state (Gellner 1983: 7). This conceptual variation is in part a consequence of its historical moorings. A Western import, the compulsion for conceptualising an Indian nation was largely an outcome of British colonial presence and its articulations (Oomenn 2004: 23). Originally denoting monocultural entities of Europe, the concept underwent a paradigm shift when transplanted to the Indian subcontinent. Colonial administrators like Seeley (1883: 255, cited in Oomenn 2004: 23) commented: 'India is...only a geographical expression

like Europe or Africa. It does not make the territory of a nation and a language, but the territory of many nations and languages.' Questions like 'Is India a Nation?' and 'Does India Exist?' are recurrent themes in the analysis of state and society in India (Mukherji 1994: 21).

For most scholars, the concept of nation is applicable to the Indian subcontinent, albeit, in a form and structure modified from its western conception. For Oomenn (2004: 9), South Asian states like India and Pakistan are collectivities of nations coexisting within federal states. The ambiguous relationship between nation and state is not confined to the Indian situation alone. Hobsbawm (1990: 7) writes that the nation belongs to a particular and recent historical period; it is a social entity only insofar as it relates to a certain kind of modern territorial state, the 'nation-state'.

The nation state holds people together in civil ties bound by the civil, political and social rights given by citizenship. In doing so, the nation state has homogenised ethnic, cultural, religious regional and class based differences (Munch 2001: 1). This homogeneity is best articulated through the institution of citizenship. As a legal institution, it originated with the modern state and found its clearest articulation in the nation state; it thus has links with conceptions of the nation and hence also with nationality.

CITIZENSHIP AND REFUGEES

Citizenship is a contractual relationship between the state and the inhabitants under its jurisdiction. Modern constructs of citizenship have been organised around a fixed relationship between the state, territory and the citizen. But citizenship's correspondence with a single nation state is increasingly being called into question by various re-imaginings of identity,

belonging and community. Migrants, refugees and diaspora are just some of the categories that challenge traditional notions of citizenship.

While the notion of refugees existed since Biblical times, refugee formation is largely a twentieth century phenomenon. It is often a direct consequence of the attempts made by the newly independent countries in Africa and Asia that transplanted the Western ideal of nation state in their own territories. The modern nation state with its homogenising principle led to the ideal of a unified cultural identity. Those that refused to be homogenised were looked upon as the 'other'. In its extreme, this intolerance of difference led to a situation where people were forced to flee their motherland and become refugees.

When people flee a country on account of persecution or torture, their most likely place of destination is a friendly neighbouring country. This displacement is often seen as a temporary phenomenon. Usually manifested in the form of refugee camps and other makeshift dwellings, the refugee does not expect this status to be long term: either he expects to return once the conditions that forced flight are resolved, or the displaced permanently gets incorporated into the place of refuge. But what often happens is that this resolution of conflict that prompted displacement is never easily settled. The refugee is often in a state of protracted limbo, wherein citizenship in the new country is hard to come by and neither is the refugee willing to give up his original culture. Generations of refugees in various parts of the world, spend their entire lives in the new country in this state of perpetual flux.

Of course, given the magnitude of the volume of refugees and refugees in the twentieth century, as well the ambiguity of the strict association of citizen, State and territory, no country can be so flippant as to treat refugees as expendable. Though international laws prohibit any country

from rejecting refugees, the hosts are always concerned on settling the refugee crisis. While settling refugees in the "country of first asylum", preferably voluntarily, is a traditional solution to the problem of displaced persons, if this is not viable then the most feasible solution is considered to be the integration of refugees into the receiving country. Acquiring citizenship of the host country is one of the strongest means of integration of refugees. This is often not such a clear cut goal. Such uprooted people are under constant pressure to integrate into the host society as quickly and smoothly as possible without causing too much disturbance, and at the same time to retain their socio cultural particularities as a conscious decision to be members of the moral community of their fellow compatriots (Braakman and Schlenkhoff 2007). Nevertheless, getting citizenship is very high on the agenda of most refugee communities. Becoming a citizen goes a long way in dispelling that acute sense of insecurity that every refugee feels. In fact, so much is the importance that a refugee places on citizenship, that at times, if there is no hope of becoming citizens of the host country, refugees might even prefer to return to the hostile home country of which they are the citizens.

Thus the desire of the refugees to aspire for citizenship in the host country is often a given, if they are unable to return to their homeland. But there are a few refugees that as a community have traditionally desisted from assimilation and citizenship in the host country. The Tibetan diaspora in India is one such community.

CHINA - TIBET CONFLICT AND THE MAKING OF REFUGEES

The status of Tibet has been a contentious issue since the twentieth century. While China claims that Tibet was a part of its territory since the thirteenth century, its current stand on the issue took shape only after the

People's Republic of China (PRC) came into being. To question the legitimacy of Tibet's incorporation into PRC is to question the legitimacy of the idea of the Chinese State as constructed by the Chinese Communist Party; it is to raise questions against the cultural and political nationalism that has been fostered within the PRC and has fundamental bearing on the identity of modern China (Sperling 2004: 5). The Tibetan position on its relationship with China and on the Chinese invasion, keeps changing in an attempt to build a vision of Tibet that reflects the new sense of nationalism that grew out of the 1959 revolt and the years of exile that followed. Discussing Tibet's status vis- a-vis China, and the intricacies of what Tibetans see as invasion, are beyond the scope of this paper. For the purpose of this paper it suffices to say that in 1949, Mao Tse- tung took over as the communist leader of China. In 1950, the People's Republic Army of China (PRC), marched into and occupied Tibet. Their reason for doing so was to liberate the Tibetans from the domination of the landlords and the reunion of Tibet with mainland China. For nine years there were fruitless attempts at negotiations between the Governments of China and Tibet. In March 1959, fearing kidnapping and assassination, the XIVth Dalai Lama, Tenzin Gyatso, fled to India. Following the Dalai Lama, thousands of Tibetans fled to India as refugees. The subsequent genocide, and the Cultural Revolution that took place a decade later, saw an exodus of Tibetans fleeing to India and Nepal as refugees.

'NON ASSIMILATIVE' POLICY OF SEEKING REFUGE

Of the millions that have fled their homeland seeking refuge and a new life in host societies, the Tibetans stand out. They have taken refuge not as individuals, but rather as a national polity that has escaped the devastation taking place in Tibet and has sought and been given the protective mantle of

a neighbouring friendly country. Both the people and cultural institutions have taken refuge in a host setting and have demonstrated both strength and survivability (Michael 1985: 737).

In March 1959 the Dalai Lama Tenzin Gyatso, the sprititual and temporal head of Tibet, left the Tibetan capital, Lhasa, after the Chinese suppression of an uprising and travelled for three weeks on horseback to the Tibetan-Indian border, where he was welcomed into India and granted refuge. In a meeting held between the Indian Prime Minister, Jawahar Lal Nehru and the Dalai Lama, few areas of concentration were identified: rehabilitation of the Tibetan refugees, education of the Tibetan children, preservation of the Tibetan religion, culture and identity, gathering and disseminating information regarding Tibetans both inside and outside Tibet, pursuing the Tibetan questions at the United Nations, and preserving and promoting unity among the Tibetan refugee community. When a symbiotic national community with specific political and geo-cultural boundaries gets dismantled, it leads to the collective construction of a sense of community among the members of the former national community. The Dalai Lama with the support of the Central Tibetan Administration (CTA) soon got on with the task of the creation and sustenance of unified Tibetan community in the face of disparity with regard to the Tibetan populace.

The Tibetan community in India followed a policy of limited acculturation. The most articulate expression of this policy is found in the insistence of the Tibetans to maintain their refugee status. Accordingly, not applying for Indian citizenship and retaining their refugee status despite several inconveniences has been seen as a mark of patriotism and nationalism. Retaining their refugee status in a country that does not technically recognise refugees, leads to social and legal ambiguities. An

understanding of the current legal standing of the Tibetan refugees in India will help better understanding of their position.

LEGAL STATUS OF TIBETANS IN INDIA

There is no specific legislation in India concerning refugees. India has neither signed the 1951 Convention on Refugees nor the 1967 Protocol on Refugees. The status of refugees in India is governed mainly by political and administrative decisions and compulsions rather than any codified model of conduct. The ad hoc nature of the Government's approach towards refugees has led to varying treatment of different refugee groups. The legal status of refugees in India is governed mainly by the Foreigners Act 1946 and the Citizenship Act 1955. These Acts do not distinguish refugees fleeing persecution from other foreigners; they apply to all non-citizens equally. Though they do not fall under the UNHCR's mandate, the largest refugee populations in India which include the Tibetans and the Sri Lankans are considered refugees by the Government of India.

Tibetans who arrived in India since the late 1950s were granted refugee status though India was not party either to the 1951 UN Convention Relating to the Status for Refugees or the 1967 Protocol. Tibetans who are born in India are also eligible to obtain a Registration Certificate (RC) at the age of 16 in order to stay in India, which must be renewed annually.

The Indian Constitution does not make any provision regarding acquisition of citizenship after its commencement. Rather, the power to regulate citizenship and naturalisation is given to Parliament in Article 11. Parliament has exercised its power to regulate citizenship by enacting the Citizenship Act of 1955, as amended by the Citizenship (Amendment) Acts of 1986 and 2003. The Act provides for the acquisition and termination of

Indian citizenship after the commencement of the Constitution. Section 3 of the Act governs citizenship by birth and provides, inter alia, that every person born in India between January 26, 1950 and July 1, 1987 "shall be a citizen of India by birth."

Despite the provisions of Section 3 of the Citizenship Act of 1955, until very recently, it has been exceedingly difficult, if not impossible for Tibetan refugees to become citizens of India. A major reason for this is that most Tibetans have not been able to record their birth officially with the Indian Government. Although Section 3 declares that every person born in India between 1950 and 1987 is a citizen of India, Tibetans born in India during that time frame are nevertheless treated as foreigners subject to the Indian Foreigners Act, and not citizens of India.

Without citizenship, Tibetans are excluded from the political process and ineligible to vote. They are also not eligible to hold government jobs as well as own property. Further, as non-citizens, Tibetans are subject to the Registration of Foreigners Act, 1939 and the Foreigners Act, 1946, which authorize the Central Government to impose a wide range of restrictions on foreigners. Foreigners are required to report their presence and their movements, as well as provide proof of their identity to designated authorities at regular intervals.

But it should also be noted that Tibetans are given more rights than most other refugee groups in India. They are provided with residence certificates, on attaining sixteen years of age, which enable them to seek formal employment. They are the only refugee group to receive travel permits from the Indian government in the form of an Identity Card (IC).

But the status quo changed with a revolutionary High Court ruling in 2010. Namgyal Dolkar, a girl born in Kangra in Himachal Pradesh in India

in 1986, of Tibetan parents born in Tibet, applied for Indian citizenship. In March 2008, when Dolmar applied for an Indian passport, her application was rejected on grounds that she could not be considered Indian as her parents were Tibetans. She then approached the High Court. On 22 December 2010, The Delhi High Court ruled that Dolkar is entitled to claim Indian citizenship by birth as per the Citizens Act. This ruling confirmed that any Tibetan who was born in India between 1950 and 1987 to apply for Indian citizenship.

Another recent significant implication of the High Court legislation is that the Election Commission wrote on February 7, 2014 to all states to enrol Tibetan refugees, born in India between January 26, 1950 and July 1, 1987 on the electoral rolls of India. Thus those Tibetans who have Indian citizenship now enjoy the right to vote.

A PATH BREAKING RULING AND NEW INSECURITIES

Tibetans themselves are now divided on the issue of the nature and extent of the policy of non assimilative integration that has thus far been instrumental in creating and sustaining a unified Tibetan identity in exile. And this difference of opinion comes to the fore very clearly in the context of the issue of citizenship.

This ruling has been claimed to be a landmark judgment. 'We welcome the court decision. It's a historic one... it was for the first time that any Tibetan in exile has been granted Indian citizenship,' Thubten Samphel, a spokesperson for the Tibetan government-in-exile, gave the official reply of the Tibetan administration. But Shri Rinpoche, the former Prime Minister of the Tibetan Government in exile does not find this a precedent. According to him, there are a number of Tibetan refugees who adopted Indian citizenship.

In an interview with an online journal 'Tibetan Political Review' (Editorial Board 2011) Rinpoche said "Once they adopted Indian citizenship they are no longer Tibetan citizens nor do they hold refugee status; then he or she becomes an Indian citizen. And after that then that person cannot pretend to be a refugee or pretend to be a Tibetan citizen. That is quite clear."

Currently under Indian law, Tibetans are granted Residence Certificates (RCs), that categorise them as foreigners—not refugees. This precarious identification affords Tibetans in exile neither refugee status, which would grant them rights under international treaty nor legal governmental representation. As non-citizens, Tibetans cannot own property or register their own businesses. Much before this judgment, many Tibetans, especially those living in the settlement in Delhi, popularly known as Majnu ka Tilla, were getting increasingly frustrated with the whole process of getting periodic renewal of their identity cards. This often involved inordinate delays. But Rinpoche counters this by asserting that "the rights enjoyed by Tibetan refugees are almost equal with that of Indian citizens. He clarifies that Tibetans can set up business and even own land, except in states such as Jammu and Kashmir, Uttarakhand, Himachal Pradesh where the people outside the state, even Indian citizens, cannot purchase or sell or own landed property. In Himachal Pradesh, with the document of power of attorney Tibetans can use land."

In order for a Tibetan to acquire citizenship by birth, he or she must obtain and submit a "no objection" certificate from the CTA, which is considered as the custodian and representative of Tibetans in exile. But Tibetans complain that the CTA is reluctant to grant them the NOC.

The CTA also quite openly dissuades Tibetans from taking Indian citizenship. It is felt that this will dilute the Tibetan cause. The CTA opines

that as it is, maintaining Tibetan culture in exile in itself a challenge, given the proximity of the young Tibetans with the Indian hosts. If Tibetans take on Indian citizenship, it may also discourage Tibetans in Tibet.

Tenzin Tsundue, noted Tibetan activist also feels that taking on citizenship may divide the Tibetan community as some Tibetans will not be able to acquire Indian citizenship. 'it is like a Hindu taking Islam and then live in the Hindu community. Not only that, there is a dream of a free Tibet that has sustained us and those who end up taking citizenship, in a way, betray the cause. And with respect to complaints like difficulty in getting gas cylinders etc, yes those things are there. But then, India is a country of adjustments. Thoda bahut, adjustments karna padta hai (everyone has to make some adjustments). Citizenship is not the solution.'

While Tibetans in India are not encouraged to take on Indian citizenship, the CTA does not dissuade Tibetans living in Europe and America from taking citizenship. It is common practice for a Tibetan to hold American or Canadian citizenship, or for a Tibetan in Tibet to hold Chinese citizenship. Tibetan in India then ask, why is there this double standard on the part of the CTA? Why is there a reluctance to accept a Tibetan holding Indian citizenship? Tsundue explained that in foreign countries, there is refugee law. "Firstly going to any of these countries is terribly expensive. So it is easier to go as a refugee. But you cannot be a refugee forever. After a few years you get a work permit, then you get a residence permit, and then you get citizenship. In India you can be a foreigner forever. Moreover, India is the seed of the Tibetan struggle. If these Tibetans take on Indian citizenship, then where is the struggle?"

Some Tibetans I spoke to, were derisive of the fact that Namgyal Dolkar, a daughter of Tibetan Dharma King, went to Indian courts to claim

Indian citizenship. They felt that if a member of the Tibetan Royal Family felt the need to reject her refugee status, what message would that send to ordinary Tibetans who are struggling and yet maintaining their refugee status with pride. But Dolkar explained to me that she took on Indian citizenship, simply because, as per Indian law, it was her right. "Anyway, legally, we are not refugees. So I wanted to have some official identity." And she believes that becoming an Indian citizen, does not make her any less of a Tibetan. In fact, she is actively involved with a Tibetan organisation in Dharamshala that works for the rehabilitation of Tibetan political prisoners.

The most important factor weighing in favour of citizenship was the uncertainty that came with being stateless. The question of when the Indian Government will change its mind and they will be denied status acts like a Damocles sword over their necks. As TempaGashi, a young Tibetan articulates his fears: "Right now, we are enjoying a lot of sympathy and international recognition due to the tireless efforts of His Holiness. What will happen when he is no longer with us and when the exile community will have to go through a difficult transition with China breathing down our necks with their own 15th Dalai Lama?"

The decision of the Election Commission of India to grant voting rights to all people of Tibetan origin born in India between 1950 and 1987 has divided the exile community. While some have welcomed the move and registered to vote, many see it as a blow to more than 50 years of struggle that could diminish their chance of returning to their homeland (Sehgal 2014). Tenzin Lekshay, media coordinator in the Tibetan Bureau Office explains this lack of enthusiasm on the part of the Tibetans to get Elections cards " We are grateful to the government of India for being kind to us and giving us shelter in the most difficult of times. However, we are Tibetans and

would like to stay that way”, says Lekshay. He also adds that voting in the Indian elections may amount to the dilution of the great dream – Free Tibet (Saikia 2013).

What about the views of the hosts on Tibetans acquiring Indian citizenship? Though I have no data on the views of the locals regarding the issue of citizenship for Tibetans, a number of Indian security analysts support Indian citizenship for Tibetans. Tibetan Political Review (Moynihan 2012) quoted the views of a senior diplomat in New Delhi; “The people of Ladakh, Arunachal, Himachal, are our most patriotic citizens; they know the China threat and they are proud to be part of democratic India. Many Tibetans have served with distinction in the Indian military. The Tibetans are small in number and well assimilated in India, and they would be strong voice in this patriotic northern constituency, which is getting more important by the day.”

A CONCLUSION BUT NOT A SOLUTION

For Anderson (1983) the nation is an imagined community. When a symbiotic national community with specific political and geo-cultural boundaries gets dismantled, it leads to the collective construction of a sense of community among the members of the former national community. The Tibetan refugees in India is one the most successful diasporic community in the world that have managed to construct and sustain a strong sense of imagined community in the diaspora, more specifically in India. With their own schools, settlements and business enterprise, they have actively used their agency to retain their limited acculturation within the larger Indian society. It becomes even more imperative as Tibetan religion, language and culture is best preserved in the diaspora. In Tibet itself, Tibetan religion, language and culture is under constant threat from Chinese hegemony. In fact, an increasing number of young Tibetans come to India every year to get

educated in Tibetan language and culture which is taught in the many Tibetan schools run and managed by the Tibetan administration. They have consistently held their refugee status as a badge of honour, a commitment to their temporary stay in the diaspora and the final return to a free Tibet.

The introduction of the option of Indian citizenship is then seen as a spoke in the wheel of a carefully constructed Tibetan community. The Tibetans in India already fear a dilution of culture among those Tibetans who have undergone secondary migration and have now settled in various parts of Europe and America. Tibetans now are apprehensive that by availing Indian citizenship, young Tibetans may get distanced from the Tibetan cause.

As Tempa Gashi says "What is so wrong about us gaining something that will also provide us with previously unknown benefit, recognition, and opportunities in India as a de facto citizen? We will still be able to take advantage of various incentives as a citizen and as more opportunities open up, we would have a more prosperous community, less dependent upon foreign aids and be able to take care of our own people. We now don't have to worry about losing our culture and traditions like before because we are fully established with our own communities and establishments."

Gashi's argument differentiates between personal material mobility and maintaining Tibetan culture, religion and identity. Gashi and many other Tibetans who seek Indian citizenship do not perceive a disconnect between seeking Indian citizenship and promoting Tibetan nationalism. Chatterjee (1994) in response to Anderson's ideas on imagined communities makes a distinction between the inner domain and outer domain. He opines that the logic of nation in eastern societies like India is different from western conceptions of the same. India for instance makes a difference between an

outer material domain and the inner spiritual domain. In the outer material domain of science and technology, Indians acknowledged western supremacy. Hence they did not object colonial hegemony in the outer domain. But in the inner domain, the domain of spirituality and family, Indians upheld the superiority of their thinking. In this domain, Indians already formed a nation, while they were yet the colonised. The young Tibetans seeking Indian citizenship too, make this distinction between the outer material domain, where they acknowledge that for their upward mobility and sense of security, Indian citizenship becomes imperative. But they do not perceive this as a dilution of their Tibetaness. Tibetaness is deeply ingrained in their inner domain and for them can never be erased.

But the stateless Tibetans seek citizenship in the diaspora not only to empower them with agency for their own mobility, but also see Indian citizenship as means to further their cause of the formation of the state of Tibet. Citizenship ensures their fuller participation in the Indian state, but does not compromise their participation in and commitment to the Tibetan nation. They use their agency to carefully negotiate the requirements of both their nation and their new found state.

But, as Tsundue says, “citizenship is a complex political and emotional issue. It is not a privilege that a refugee should blindly grab with both hands.” Noted Tibetan activist and poet Lhasang Tsering vociferously reiterates “We did not come into exile to become the world’s most successful refugee community. We came here to fight for our brothers and sisters in Tibet. We can never forget — that is what matters most” (Moynihan 2012).

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