NEGOTIATING SOCIO-LEGAL CHALLENGES IN EXILE: TIBETAN DIASPORA IN INDIA IN A STATE OF LIMBO

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DECLARATION

"I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person nor material which has been accepted for the award of any other degree or diploma of the university or other institute of higher learning, except where due acknowledgment has been made in the text."

Ambika Verma

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EXECUTIVE SUMMARY

This thesis study delves into the socio-legal status and challenges that confront the Tibetan exile community in India. By conducting an ethnographic field study, I have thoroughly explored the lived experiences of three generations of Tibetan exiles who have been living as stateless individuals in Tibetan settlements located in Leh (Ladakh), Dharamshala, and Darjeeling, India. My research has broadly focused on investigating changing trends in refugee discourse at the global level to establish a relevant foundation for analyzing India's regime for refugee protection and management. This analysis is particularly important considering India's role as a key destination for refugees and asylum seekers from various countries and communities, especially in South Asia. In addition, this study also examines domestic legislations, policies, and influencing factors at the micro-level, with a specific emphasis on legitimate claims of socio-economic and membership rights made by the Tibetan exile population in India. Through their careful observation of daily life, which involves navigating various socio-economic, legal, political, and cultural interactions with the local population, and their active involvement with the Indian Government and the Central Tibetan Administration, both of which hold significant influence in shaping the identity of Tibetan exiles in India.

It is crucial to consider that the study is unable to cover the complete range and extent of the refugee population in India. Therefore, it solely concentrates on the status and rights of the Tibetan exile population. The principal purpose behind the selection of the Tibetan exile community for this study is to gain a profound understanding of forced migration as a phenomenon, the obstacles confronted by the community during their exile, the operations of the Tibetan community and its Government-in-exile, the preservation of group identity and nationality versus membership rights, and the present-day diasporic shift experienced by the third generation of Tibetans. This study offers a re-conceptualization of the specificity of ethnographic insights within the context of law reform, specifically examining their applicability to domestic law reform debates and global discussions on refugee law reform and

Tibetan group rights. Through this research, I aspire to present fresh perspectives on the socio-legal realities of interactions between refugee states, focusing particularly on Tibetan exile community in India who are trapped in a state of limbo.

Elaborating on this premise, the thesis study begins with an introductory exploration of the international framework for refugee protection. Within this chapter, I explore the evolution of refugee status in international law through an examination of principles outlined in international and regional instruments governing refugees. Additionally, I analyze the discourse surrounding refugee protection and how it has demonstrated flexibility to accommodate evolving global refugee movements. This transition has involved a shift from convention-based norms towards a more equitable distribution of responsibility for refugees. I contend that the foundation of refugee protection has been rooted in the arbitrary, historically anachronistic, and discriminatory actions of majority developed nation-states, rendering it irrelevant and insufficient for the requirements of developing nations in the Global South. Nevertheless, over time, international and regional discussions on the protection and management of refugees have aimed to address the increasing divide between the Global North and South by acknowledging the evolving dynamics of cross-border displacement, particularly in the Global South. This chapter delves into the historical discrepancies and gaps within the normative framework of refugee legislation. It also evaluates the ongoing efforts, including the United Nations Global Compact on Refugees, which seeks to address these issues through a multi-stakeholder approach in establishing a globally accepted forum for refugee protection. In conclusion, the last segment of the chapter explores India's involvement and interaction with the global refugee protection framework. The country's non- adherence to the 1951 Convention Relating to the Status of Refugees and 1967 Protocol, its stance on international obligations like the Global Compact on Refugees, and how these translate into the establishment of legal and policy frameworks for refugee management and protection within its borders.

In the second chapter, I have presented an overview of the current refugee regime, alongside an in-depth portrayal of the arrival, organization, and rehabilitation of the Tibetan Exile population in India. The thesis study examines the design and implementation of legislations, policies, and regulations that govern refugees in India at large, focusing specifically on Tibetans. By drawing upon existing literature and secondary sources, the chapter begins with a concise historical account of the phenomenon of migration/movement of people (refugees) in the Indian context. Moreover, I delineate the progress and influence of international humanitarian instruments on domestic state actors, such as the involvement of the Indian Judiciary and the Indian Constitution in overseeing the processes of admission, resettlement, rehabilitation, and repatriation of refugees and asylum seekers within the territory. The discussion transitions from a macro level to a micro level analysis when I highlight the current legislations, policies, and regulations that govern the Tibetan exile population. This includes their legal status, resettlement, and rehabilitation under the supervision of both the Indian Government and the Central Tibetan Administration. The concluding section of the chapter depends on significant literature written by experts in the field and provides an understanding of the fundamental ideas that contribute to the formation of the Tibetan exilic identity. This identity is characterized by a strong sense of community, deeply rooted in their culture and traditions. In my argument, I maintain that despite significant accomplishments in rehabilitation, the Tibetan community living in exile for over six decades continues to encounter arbitrary treatment in India, particularly in relation to their legal status, employment opportunities, access to higher education, and other domains. This obstacle impedes their overall progress as a community, both collectively and individually.

The discussion within chapter 3 centres around the methodological framework and its significance in facilitating my fieldwork study. In this thesis study, a holistic approach has been employed, integrating socio-legal analysis, a bottom-up research study design, and an ethnographic method. This methodology provides new perspectives for conducting

comparative research on the Tibetan exile community in India. It effectively fulfills the objective of identifying and characterizing the context and environment of the exile community within their social domain, along with their comprehension and connection with government agencies and institutional legal frameworks. Through the utilization of this methodological approach, the Tibetan exiles are examined through the intricacies of their contingent reality, characterized by the interaction between local and state authorities of the Indian government and the Central Tibetan Administration. This also fosters the recognition of the Tibetan exile community's vulnerabilities and capabilities. The study draws upon Julie Peteet's (2005) multifaceted ethnographic research on Palestinian refugees which examine the complex interplay between structural limitations imposed on displaced individuals, refugee camps, international agencies, host governments, and the agency of refugees in reconstructing their daily lives within these contexts. This study explores the state of limbo experienced by Tibetan refugees through a socio-legal ethnographic analysis. It investigates the intersection between social and legal realms, informal regulations, administrative systems, and procedures that shape the perception of legality within the Tibetan refugee community, as well as among local and state actors. A comparative study on Tibetan refugees in three local contexts (Ladakh, Darjeeling and Dharamshala) though may be contextually (socio-political interactions, socio-economic assistances, institutional engagements, independent activities, lifestyles, geographical access or restraints etc.) unique and incomparable, yet, uncovers resemblances and thematic similarities among the Tibetan exile communities, in a manner that makes them an ideal case study, individually (within their local context) as well as comparatively (comparing Tibetan refugees living in Ladakh, Darjeeling and Dharamshala), for understanding how the law can shape the lives of refugees and how refugees work the law.

In Chapter 4 and 5, I delve into my experiences in the field and present the findings obtained from the conducted research interviews. In Chapter 4, I provide an extensive account of the three field sites—Leh (Ladakh), Dharamshala, and Darjeeling. This includes a detailed

exploration of the geographical, institutional, and local context of the Tibetan settlements. Additionally, I incorporate pertinent excerpts from interviews and conversations held with Tibetan settlers, officials, and camp residents. As a researcher, I assumed the responsibilities of both an observer and a participant. Through active participation in interviews and casual conversations with Tibetans across the three sites, I gained substantial information. Nonetheless, it was the field notes I made while surveying public and private spaces used by both Tibetans and the host population that added context and significance to my interviews. Initially, establishing a rapport and building trust with the interview participants may have been challenging. However, my extended stay, frequent visits to common hangouts, and genuine interest in the community helped facilitate a smooth pathway for further interaction. From my personal experience, I can confidently state that each of the three sites possessed distinctive qualities. These qualities stemmed from factors such as their remote geographical locations, the dynamics between refugees and hosts, the varying levels of resource accessibility in relation to local and state government laws, differing opinions within the Tibetan community regarding generational gaps and individual aspirations, and the valuable insights shared by officials from the Central Tibetan Administration. Since ethnographies are ideally multi-site research studies, I believe that conducting interviews and research in Leh, Dharamshala, and Darjeeling has greatly enhanced my personal and academic knowledge and experience. Through an in-depth exploration of the Tibetan community's lived experiences, everyday challenges, and their aspirations and expectations from the Central Tibetan Administration and the Indian government, the significance of my bottom-up study becomes evident. This is based on the actual conditions on the ground, rather than solely relying on existing literature about the Tibetan exile population in India and the policies implemented by the Indian government for their resettlement and rehabilitation spanning over six decades.

Chapter 5 explores the findings and central themes that emerged from the interviews conducted with Tibetan exiles at Leh, Dharamshala, and Darjeeling. The chapter offers a specific

perspective on the daily challenges and predicaments encountered by both the individual and collective Tibetan exile population. Negotiating the delicate balance between the collective desire for cultural continuity and identity preservation and individual ambitions for socio-economic advancement, either through applying for Indian citizenship or migrating to the West, requires careful consideration. I strive to provide contextualization for key concepts such as belongingness, identity, the spirit of nationalism, and citizenship by utilizing personal experiences and narratives of Tibetans in exile. This aids in our understanding of the evolving trends within the Tibetan Diaspora, characterized by the preference for self-preservation over communal and Tibetan cause-oriented objectives. Spanning from the arrival of Tibetan refugees in India and the subsequent establishment of a resilient exile community with assistance from the Indian Government to the present-day scenario characterized by a prolonged deadlock regarding their legal status in India and the ambivalent position of the Indian government and laws that undermine their survival and basic human rights.

In conclusion, this chapter offers a viewpoint on the contingent nature of Tibetan national identity and the role played by host nations and non-state actors in reconstructing their identity while in exile. The act of refraining from seeking Indian citizenship is considered a crucial decision by most Tibetans in India, as it is seen as integral to the Tibetan struggle and the preservation of their identity in exile. Nevertheless, a significant portion of the population, particularly second and third-generation Tibetans living in exile, aspire to establish a stable existence enriched with improved educational and employment prospects, either by pursuing citizenship rights in India or by migrating to Western countries. The comprehensive ethnographic narratives of the Tibetan exiles shed light on their precarious situation entangled in the complexities of legal status, identity, and citizenship politics. Furthermore, based on my fieldwork at all three sites, I have come to comprehend that while the Tibetan community is self-sufficient, the educated Tibetan youth possess aspirations for personal development and a more prosperous life outside the designated Tibetan Refugee Settlements.

India serves as the home for numerous young Tibetans who were born and raised here. While Tibet is considered a part of their idealizations, the feasibility of realizing it appears distant. While differing in age, Tibetans all share a strong attachment to their roots and traditions, which they see as the cornerstone of the Tibetan freedom movement's endurance. However, the feeling of belonging or home, for the majority of young Tibetans, appears to be linked to their family and community rather than a specific location or territory. Thus, they harbor a mounting inclination to secure Indian citizenship (given favorable procedures and laws) or emigrate to western countries for lucrative opportunities in education, employment, and lifestyle.

In the concluding chapter, Chapter 6, I summarize the study's findings in relation to my research question, organized into two themes: the first being emerging issues within the Tibetan exile community, and the second being lessons learnt from the Tibetan case study. In the initial part of the chapter, I emphasize the adversities encountered by the Tibetan exile community as a result of their liminal legal status, classified as 'foreigners' by the Indian government, 'stateless Tibetan Nationals' according to the Central Tibetan Administration, and 'Indian citizens' for those who have chosen this status formally. Through the examination of academic literature and interview excerpts as part of my research study, I have determined that socio-economic claims within a polity are primarily linked to citizenship and membership rights. Moreover, what sets citizens apart from aliens or non-members is their ability to access basic subsistence rights. Hence, citizenship can be employed as a tool to marginalize those who aspire to participate and be recognized. In the context of the Tibetan community, the question of accepting or rejecting citizenship/membership rights has assumed great significance, as it determines and governs their exilic identity. Additionally, the lack of a national legislation for refugee resettlement and rehabilitation in India has resulted in an uneven implementation of rehabilitation policies and welfare initiatives. This is particularly evident in the case of the Tibetan Rehabilitation Policy 2014, which has led to marginalization between different refugee groups and within the Tibetan exile community.

Moreover, the Central Tibetan Administration does not explicitly endorse Tibetans to pursue Indian citizenship, as they fear it may distract them from their primary objective of returning to Tibet. Given the regulations set forth by the Indian government, it is necessary for Tibetans born in India who wish to obtain citizenship to renounce their 'Tibetan Nationality'. For Tibetans living in exile, their 'sense of belonging' resides within their community, which they should strive to preserve. However, the interviews conducted as part of this study distinctly indicate a rising sense of apprehension within the Tibetan community, particularly among the youth, regarding the potential for Tibetans to choose Indian citizenship or migrate to Western nations. This situation also poses a significant concern for the Tibetan exile community, specifically the Central Tibetan Administration.

Many ordinary Tibetans find themselves caught in a complex web of dual governance, with the Government of India and the Central Tibetan Administration playing significant roles in their daily lives and future prospects. The primary concern for most Tibetan youth is the determination of their legal status, which remains in limbo and gives rise to various problems, including limited access to socio-economic rights, citizenship rights, arbitrary treatment, and procedural obstacles. The issue of preserving collective identity over individual desires of stability within the Tibetan community, along with the longstanding position of the Central Tibetan Administration (CTA) and ad hoc legislations of the Indian government, is perceived as both a unifying and divisive element in the political and legal framework of Tibetan identity in exile.

The subsequent section of this chapter delineates the pragmatic consequences derived from the extant literature and the findings of the field study. I assert that the Tibetan exile community, among all refugee groups in India, can be regarded as an exemplary refugee group to analyze and derive lessons from, in order to redefine the domestic and global framework for refugee protection. The existence of the Tibetan exile community serves as proof that maintaining a collective identity is crucial for the survival and adaptation of refugee communities in the host

nation, as well as the crucial role played by the Central Tibetan Administration in safeguarding the exile community. The research study offers valuable insights into the role and agency of the Central Tibetan Administration as a representative institution for the Tibetan exile community. Based on the theoretical evidence and narratives of Tibetans in this study, it is evident that the collaboration between India and the Central Tibetan Administration, a semi-sovereign organization, has played a crucial role in the organization of the Tibetan community, while simultaneously politically motivating the exile community, preserving their culture, establishing a connection to their homeland, and addressing daily concerns such as education, employment, health, funds, international relations, cultural maintenance, and the arrival, relocation, and rehabilitation of both new and existing refugees. The engagement of the Central Tibetan Administration with the Indian government, at both the union and state levels, has proven to be effective as a representative body for the Tibetan exile community. In the context of rehabilitation and resettlement policies, legal procedures, documentation, and tenancy rights for the Tibetan exile community, it is crucial to lay the groundwork for future discussions on comprehensive domestic legislation to protect refugees in India.

The Tibetan situation serves as a valuable example of how collaboration among various stakeholders, such as host countries, civil society organizations, and international organizations, can lead to innovative solutions outside the international framework. These solutions include fostering self-reliance, relieving the pressure on host nations, and sharing burden-sharing responsibilities. Consequently, its relevance is highly context specific and contributes to the assessment of the feasibility of the objectives articulated in the Global Compact on Refugees, which were widely affirmed and supported by countries in the Global South, including India.

Last, I summarize this chapter by underscoring the paradoxical nature of the Tibetan exile population. They exemplify a simultaneous state of emancipation and stagnation, living as a stateless diaspora in exile for over six decades. On one hand, it underscores the success narrative of the community in persevering and rehabilitating themselves in the host nation via a self-

sustaining resettlement process that centres on the conscientious principles of safeguarding the collective identity of the Tibetan community by resisting assimilation through citizenship, thereby substantiating their raison d'être for living in exile. On the contrary, this position has the downside of imposing restrictions on the ability of many Tibetans born in exile to access certain civil, political, and socio-economic rights, impeding their individual development and aspirations.

List of Abbreviations

AALCC - Asian-African Legal Consultative Committee, 1966

CAA – Citizenship Amendment Act 2019

CRC – Central Relief Committee

CRO – Chief Representative Officer

CTA – Central Tibetan Administration

CTRC – Central Tibetan Relief Committee

CTSA – Central Tibetan School Administration

DIIR – Department of Information and International Relations

IC – Identity Certificate

ICCPR - International Covenant on Civil and Political Rights, 1966

ICESCR - International Covenant on Economic, Social and Cultural Rights, 1966

IOM - International Organization for Migration

LTV – Long Term Visa

NRC – National Register of Citizens

OAU - Organization of African Unity Conventions, 1969

OHCHR - Office of the High Commissioner for Human Rights

RC – Registration Certificate

SEP – Special Entry Permit

TCV – Tibetan Children's Village

TGIE – Tibetan Government – in – Exile

TRP – Tibetan Rehabilitation Policy 2014

TYC – Tibetan Youth Congress

UDHR – Universal Declaration of Human Rights

UNDP – United Nations Development Programme

UNESCO – United Nations Educational, Scientific and Cultural Organization.

UNHCR - United Nations High Commissioner for Refugees

UNICEF – United Nations Children's Fund

UNRWA – United Nations Relief and Works Agency for Palestine Refugees in the Near East

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CHAPTER 1

DEVELOPMENTS IN INTERNATIONAL REFUGEE LAW DISCOURSE: FINDING RELEVANCE WITHIN INDIAN REFUGEE GOVERNANCE?

ABSTRACT

The thesis study begins with an introductory exploration of the international framework for refugee protection. This chapter explores the evolution of refugee status in international law through an examination of principles outlined in international and regional instruments governing refugees. Additionally, it analyses the discourse surrounding refugee protection and how it has demonstrated flexibility to accommodate evolving global refugee movements. This transition has involved a shift from convention-based norms towards a more equitable distribution of responsibility for refugees. While the foundation of refugee protection has been rooted in the arbitrary, historically anachronistic, and discriminatory actions of majority developed nation-states, rendering it irrelevant and insufficient for the requirements of developing nations in the Global South. Nevertheless, over time, international and regional discussions on the protection and management of refugees have aimed to address the increasing divide between the Global North and South by acknowledging the evolving dynamics of cross-border displacement, particularly in the Global South. This chapter delves into the historical discrepancies and gaps within the normative framework of refugee legislation. It also evaluates the ongoing efforts, including the United Nations Global Compact on Refugees, which seeks to address these issues through a multi-stakeholder approach in establishing a globally accepted forum for refugee protection. The last segment of the chapter explores India's involvement and interaction with the global refugee protection framework. The country's non- adherence to the 1951 Convention Relating to the Status of Refugees and 1967 Protocol, its stance on international obligations like the Global Compact on Refugees, and how these translate into the establishment of legal and policy frameworks for refugee management and protection within its borders.

1.1 EVOLUTION OF GLOBAL REFUGEE PROTECTION REGIME: INTEGRATING REFUGEE LAW AND HUMAN RIGHTS LAW?

For centuries, individuals have migrated from their homeland to other countries for various causes, sometimes willingly or purposefully, and on other occasions involuntarily, due to victimization or violence, natural calamities, military conflict, and so forth. The accepted definition of a refugee entitles them to assistance and protection from the repercussions of displacement. As refugees lack the protection of their homeland, the global community needs to step in and offer that protection. A refugee is a individual who is caused to abandon their home for reasons beyond their control, such as persecution, civil war, or public disturbance. The most widely accepted definition of a "refugee" is that mentioned in Article 1 (2) of The Convention Relating to Status of Refugees, which says "any person who as a result of events occurring before January 1951 and owning to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country, or who not having a nationality or being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.[1]

The concept of refugees underwent changes over the years before 1951, when a legal approach was adopted to identify refugees during the inter-war period, in order to recognize and support those who had been denied protection from their government by providing them with international relocation. Between the years 1935 and 1939, the social approach was used to encompass those people living in a state that had experienced wide-scale political and social upheaval, regardless of their international legal status. From 1938 to 1950, the perception of refugee status shifted from a collective recognition to particular individuals making claims of protection and support based on the persecution they experienced because of their

[1] Hathaway, J.C. (1984). The Evolution of Refugee Status in International Law: 1920—1950. *International and Comparative Law Quarterly*, 33(2), pp.348–380. doi: https://doi.org/10.1093/iclqaj/33.2.348.

government's political views, religious beliefs, or racial discrimination.[2] An intricate arrangement of national, regional and international laws offered protection for refugees in international law. The principal legal instruments at the international level are the 1951 United Nations Convention on the Status of Refugees (1951 Convention) and the 1967 Protocol relating to the Status of Refugees (1967 Protocol).[3] These instruments demonstrate a global consensus on a fundamental human value and are the only instruments that exclusively regulate the treatment of those who have been compelled to leave their homes. The 1951 Convention contains the most widely accepted definition of the term 'refugee'. It also involves the implementation of the principle of non-refoulement as the primary principle of international law and outlines the essential standard of treatment for refugees.

The 1951 Convention on refugees designates that refugee protection is granted to individuals due to subjective factors of a legitimate fear of persecution, instead of granting protection to a group of refugees based on objective factors of the source country. The definition of the word refugee found within the 1951 Convention has certain restrictions. First, is a temporal limitation, which required that the refugee generating events must have occurred before 1st January 1951. Second, the Convention is limited geographically to refugees from Europe or events that have occurred in Europe. The Convention was established with the goal of resolving the refugee crisis caused by the migration of people from the Eastern Bloc and those displaced within European countries.[4] Through the 1967 Protocol on the Status of Refugees,

the temporal and geographical boundaries specified in the 1951 Convention were eliminated, which made it applicable to all.[5] Many studies have established that refugee protection

[2] Hathaway, J.C. (1984). The Evolution of Refugee Status in International Law: 1920—1950. *International and Comparative Law Quarterly*, 33(2), pp.348–380. doi: https://doi.org/10.1093/iclqaj/33.2.348.
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[5]HATHAWAY, J.C. (1991). Reconceiving Refugee Law as Human Rights Protection. *Journal of Refugee Studies*, 4(2), pp.113–131. doi: https://doi.org/10.1093/jrs/4.2.113. Goodwin-Gill G, 1988, 'Refugees: The

regulations should be concerned with activities that deny human dignity in any form, and the sustained or systemic violation of fundamental human rights. The process of refugee protection starts with the admittance of individuals into the region of a state and the offering of asylum, followed by the confirmation of refugee status. Therefore, the refugee protection system recognizes the origins of its structure in an international framework that has created a legal set of standards that articulates fundamental human rights for those who are being persecuted.[6]

The 1951 Convention relating to the Status of Refugees, which provides a framework of rights and duties to resolve the refugee problem, can reasonably be deemed a progressive move in international law. To understand the Convention, it is important to recall that the only substantial international human rights law in existence at the time the Convention was being written was the Universal Declaration of Human Rights (UDHR), which was a non-binding declaration from the General Assembly.[7] Prior to the enforcement of obligatory international human rights regulations such as the International Covenant on Civil and Political Rights, 1966 (ICCPR), the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and various other regional refugee protection instruments, the guarantees of the 1951 Refugee Convention and its 1967 Protocol were among the scant few international standards upon which refugees could rely.[8]

While the global refugee protection system has shown its ability to adjust to the shifting patterns of international refugee migration. However, the growing number of irregular migrants, refugees, and asylum seekers, whether because of the effects of urbanization, climate

Functions and Limits of the Existing Protection System', in Human Rights and the Protection of Refugees under International Law, Nova Scotia, pp. 142 – 182.

[6]Goodwin-Gill G, 1988, 'Refugees: "The Functions and Limits of the Existing Protection System', in Human Rights and the Protection of Refugees under International Law, Nova Scotia, pp. 142 – 182. Nash, A.E. and Humphrey, J.P. (1988). Human rights and the protection of refugees under international law : proceedings of a conference held in Montreal, November 29-December 2, 1987. Montreal: Canadian Human Rights Foundation ; South Halifax, N.S".

[7] Hathaway, J.C. (1984). The Evolution of Refugee Status in International Law: 1920—1950. *International and Comparative Law Quarterly*, 33(2), pp.348–380. doi: https://doi.org/10.1093/iclqaj/33.2.348.

[8]Hathaway, J.C. and Dent, J.A. (1995). *Refugee rights : report on a comparative study*. Toronto: York Lanes Press.

change, better economic prospects, or fear of persecution and strict immigration policies of countries, has caused people to question the adequacy of existing international refugee legislations. Particularly, understanding the stipulations under the 1951 Convention and 1967 Protocol, wherein some countries, mainly in the Global North, practice different additional forms of protection, which have occasionally caused refugees under the Conventions to be granted lower levels of protection.[9] The popular belief is that the definition of a refugee in the 1951 Convention is regional and considered being a product of the Cold War and Euro-centric.

The criteria used in the 1951 Convention to define a refugee are excessively stringent and fail to encompass circumstances such as foreign aggressions, armed conflicts or civil wars, mass displacement of populations resulting from cruel government policies, unjust persecution of individuals, complete collapse of the state system, natural catastrophes, and widespread human rights violations. Despite its limitations, the 1951 Convention and 1967 Protocol are legal instruments that hold universal applicability, as they articulate fundamental rights and the minimum standard of treatment for refugees.[10] The fundamental objective of the refugee protection regime was never to safeguard individuals who are seeking refuge from specific reasons of displacement. Rather, to guarantee that all individuals within an international society of states would have a state that is both willing and capable of safeguarding their fundamental human rights and dignity. The refugee protection regime was established to function as a mechanism of control and counterbalance against the unavoidable inadequacy of certain nations to safeguard their citizens.[11]

At the beginning of the 21st century, protecting refugees involved maintaining international solidarity and devising solutions to the challenges faced by the international system

[9] HATHAWAY, J.C. (1991). Reconceiving Refugee Law as Human Rights Protection. *Journal of Refugee Studies*, 4(2), pp.113–131. doi: https://doi.org/10.1093/jrs/4.2.113.

[10] Hathaway, J.C. and R. Alexander Neve (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Harvard Human Rights Journal* 10 pp. 115-211.

[11] Gallagher, D. (1989). The Evolution of the International Refugee System. *International Migration Review*, 23(3), pp.579–598. doi: https://doi.org/10.1177/019791838902300309.

established to fulfill that purpose.[12] Due to their membership in the United Nations and signature or accession to refugee protection instruments, states are obligated under international law to protect refugees. The international refugee protection regime grants protection only to a specific group of people who have fled their homes because of a series of continuing human rights violations. Surrogate protection is provided to individuals through the International Refugee law, when their own states fail to fulfill fundamental obligations.[13] However, refugee protection varies in countries in the Global South and Global North. Majority of countries in the Global North exhibit reluctance towards assuming further responsibilities towards refugees and asylum seekers, consequently diminishing the legal responsibility and protection afforded to them as outlined in the Convention. While, countries in the Global South, which are primarily refugee producing nations, are the ones who are shouldering the maximum burden - responsibility to provide refuge within the region.[14] In order to expand the refugee definition outlined in the 1951 Refugee Convention, it is necessary to consider the divide between the Global North and South and include individuals such as refugees, asylum seekers, and irregular migrants without being limited by their geographical location or the conditions in their country of origin. The 1969 Organization of African Unity Conventions Governing Specific Aspects of Refugee Problems in Africa (OAU Convention)[15] and the 1984 Cartagena Declaration on Refugees (Cartagena Declaration)[16] and the Bangkok Principles adopted by Asian-African Legal Consultative Committee (AALCC) 1966,[17]

[12] Baumeister, H. (2015). Survival Migration: Failed Governance and the Crisis of Displacement. *International Journal of Refugee Law*, 27(4), pp.694–697. doi: https://doi.org/10.1093/ijrl/eev054.

[13]Guy S. Goodwin-Gill, The Refugee in International Law (Clarendon Press, Oxford, 1996), p. 211.

[14] Hathaway, J.C. (2000). *Reconceiving international refugee law*. Ashgate. Hathaway, J.C. (1997). *Reconceiving international refugee law*. Hague: Kluwer Law International.

[15] UNHCR India. (n.d.). *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted by the Assembly of Heads of State and Government at its Sixth Ordinary Session, Addis-Ababa, 10 September 1969*. [online] Available at: https://www.unhcr.org/in/media/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted-assembly-heads [Accessed 14 Dec. 2023].

[16] UNHCR India. (n.d.). *Cartagena Declaration on Refugees, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia, 22 November 1984*. [online] Available at: https://www.unhcr.org/in/media/cartagena-declaration-refugees-adopted-colloquium-international-protection-refugees-central [Accessed 14 Dec. 2023]. (hereinafter 'Cartagena Declaration').

[17] Report of the Eighth Session of the Asian-African Legal Consultative Committee held in Bangkok, 8-17 Aug. 1966, p. 335 (hereinafter 'Asian-African Refugee Principles'). A/CN.4/197 Report on eighth session of the Asian-African Legal Consultative Committee by Mustafa Kamil Yasseen, Observer for the Commission

adopted definitions more closely reflecting the realities of refugees in Third World countries, which included mass exodus of persons fleeing from their country of origin due to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of the country of origin. These local instruments were developed to address the principle of checks and balances between the entitlements and duties of host and origin nations, global accountability, and equitable responsibility and burden sharing. As well as the obligation of states to prevent refugee outflows while cooperating with other states to establish a strong mechanism for protecting refugees.[18]

The responsibility of facilitating and directing a response towards protecting refugees rests solely with the United Nations High Commissioner for Refugees (UNHCR). The United Nations High Commissioner for Refugees bears the indirect responsibility of safeguarding refugees, primarily by advocating for governments' human rights obligations and facilitating the collective sharing of protection responsibilities. When governments decline to protect refugees, the organization's ability to do so is constrained since it lacks the authority to enforce a state to change its policies, and also lacks the financial and human resources to undertake tasks that are usually designated to governments. The effectiveness of UNHCR in safeguarding refugees primarily depends on its moral authority and capacity to channel its resources towards encouraging governments to develop their protection capabilities.[19] It is necessary to reorganize the role of UNHCR to advance the government's protection of refugees. This can be achieved at the outset by advocating prima facie recognition of refugees within national borders. It is recommended that UNHCR aid and help be contingent upon government reciprocity and burden sharing, while also fostering interagency collaboration and coordination with the International Organization for Migration (IOM), the International

Cooperation with other bodies. (n.d.). Available at: https://legal.un.org/ilc/documentation/english/a_cn4_197.pdf [Accessed 14 Dec. 2023].

[18] VanDeveer, S.D. and Dabelko, G.D. (2001). It's Capacity, Stupid: International Assistance and National Implementation. *Global Environmental Politics*, 1(2), pp.18–29. doi: https://doi.org/10.1162/152638001750336569. Gallagher, D. (1989). The Evolution of the International Refugee System. *The International Migration Review*, [online] 23(3), pp.579–598. doi: https://doi.org/10.2307/2546429.

[19] Kagan, M. (2006). The Beleaguered Gatekeeper: Protection Challenges Posed by UNHCR Refugee Status Determination. *International Journal of Refugee Law*, 18(1), pp.1–29. doi: https://doi.org/10.1093/ijrl/eei045.

Federation of Red Cross (IFRC) and Red Crescent Societies, and the Office of the High Commissioner for Human Rights (OHCHR), all of which are committed to protecting vulnerable migrants and refugees.[20]

Several scholars in the past have opined that, although there is a strong correlation and causal relationship between human rights law and international refugee law, yet they remain distinct from one another.[21] While human rights regime is largely focused on the violation of citizens' rights by their own governments or by other entities within the borders of countries. However, laws regarding refugees and refugee protection apply in situations where a person has fled their home and crossed international borders out of fear of persecution or violation of their human rights. The contemporary refugee regime is in a constant state of conflict with the fundamental principles that form the basis of the international human rights system. Despite being conceptually rooted in the notion that individuals possess certain inherent rights, the contemporary human rights system is founded on individuals making claims for their rights against the state. Meanwhile, the most distinctive characteristic of refugees is the complete lack of a state to which they can make claims, as they have fled from the very state against which they hold claims. It is of utmost importance to stress that refugees are in a state of exception, residing beyond the boundaries of law and relying on the belief that a state other than their origin state will secure their basic human rights, which surpass the security and economic interests of any nation-state. It is crucial to underscore that the refugee legislation does not provide for individual refugees or refugee groups to make claims against the state,

[20] Kagan, M. (2006). The Beleaguered Gatekeeper: Protection Challenges Posed by UNHCR Refugee Status Determination. *International Journal of Refugee Law*, 18(1), pp.1–29. doi: https://doi.org/10.1093/ijrl/eei045.
[21] Marouf, F.E. and Anker, D. (2009). Socioeconomic Rights and Refugee Status: Deepening the Dialogue Between Human Rights and Refugee Law. *American Journal of International Law*, 103(4), pp.784–796. doi: https://doi.org/10.1017/s0002930000160038. Chetail, V. (2014). Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law. *Human Rights and Immigration*, pp.19–72. doi: https://doi.org/10.1093/acprof:oso/9780198701170.003.0002. Clark, T. and Crépeau, F. (1999). Mainstreaming Refugee Rights. The 1951 Refugee Convention and International Human Rights Law. *Netherlands Quarterly of Human Rights*, 17(4), pp.389–410. doi: https://doi.org/10.1177/092405199901700402.

neither do they employ the language of individual or group rights of refugees. [22]

Discourse surrounding refugee protection often neglects fundamental human rights and human dignity, instead international refugee protection instruments, i.e. the Refugee Convention and Protocol, largely focus on state obligations and responsibilities to mitigate the difficulties faced by refugees and asylum seekers post their forced migration. By contrast, international refugee law and its focus on state obligations and burden sharing responsibilities create a gap in rights-based protection of refugees globally. As a result, the global framework for refugees has transformed into a tool for managing and reducing forced migration, rather than upholding the humanitarian and human rights obligations towards refugees and asylum seekers. It is imperative to consider that refugees and asylum seekers, particularly from nations in the Global South, possess little knowledge of their legal standing and individual rights, rendering them largely incapable of availing themselves of rights guaranteed under both international and domestic law. Refugees may find some solace in the limited protection they receive in designated spaces provided by host states, which includes non-refoulement, rehabilitation, and resettlement camp. However, they have little to no access to basic human rights, which results in a state of limbo, where they cannot achieve various elements of human dignity, such as work, education, family life, non-discrimination, political expression, and more.[23]

The academic stance on the correlation between the regime of refugee protection and the regime of human rights has recently undergone modification. Hathaway, accentuates the significance of seizing the present momentum to actively endorse a new paradigm for safeguarding refugees based on human rights, individual rights, and pragmatism. The approach must integrate comprehending the dynamic trends of international forced migration

[22] Goodwin-Gill, G.S. (2008). The Politics of Refugee Protection. *Refugee Survey Quarterly*, 27(1), pp.8–23. doi: https://doi.org/10.1093/rsq/hdn003. Amit, R. (2019). Reclaiming Refugee Rights as Human Rights. *Pace International Law Review*, 31(2), pp.557–557. doi: https://doi.org/10.58948/2331-3536.1391.

[23] V. (2014). Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law. *Human Rights and Immigration*, pp.19–72. doi: https://doi.org/10.1093/acprof:oso/9780198701170.003.0002. Amit, R. (2019). Reclaiming Refugee Rights as Human Rights. *Pace International Law Review*, 31(2), pp.557–557. doi: https://doi.org/10.58948/2331-3536.1391.

through a human rights perspective, with a special emphasis on nations in the Global South, and eradicating any prejudices regarding who qualifies for rights-based refugee protection.[24] Establishing a more pertinent and effective worldwide rights based refugee protection system demands the implementation of existing refugee and human rights framework at the global, regional, and domestic levels, rather than just formulating new agreements.

The rights-based framework for refugee protection equally applies to local and global levels. Normative frameworks in refugee law and human rights law have the potential to define the conditions under which refugees, migrants, and displaced persons may be identified and their legitimate claims of rights-based protection. While, the wider progression of global law mirrors the evolving pattern of safeguarding refugees, initially founded on the Refugee Convention and later influenced by human rights agreements. Consequently, the gradual process of pollination has shaped, updated, and broadened the scope of refugee law in human rights law.[25] The amalgamation of these components forms the basis for a refugee protection approach that is centered on human rights, fortifying each other with the sole aim of protection. The notion that refugee rights are human rights is absent in both refugee law and state practices regarding refugee protection. As a result, the refugee and their human rights have become instrumental to broader state concerns. Through the re-conceptualization of refugees and forced migrants from a human rights-based perspective, they can assert their rights and transition from being mere subjects of state obligations and responsibilities to living their lives with dignity.

[24] Hathaway, J. and Neve, R. (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1622/ [Accessed 14 Dec. 2023].

[25] Chetail, V. (2014). Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law. *Human Rights and Immigration*, pp.19–72. doi: https://doi.org/10.1093/acprof:oso/9780198701170.003.0002. Amit, R. (2019). Reclaiming Refugee Rights as Human Rights. *Pace International Law Review*, 31(2), pp.557–557. doi: https://doi.org/10.58948/2331-3536.1391.

1.2 EQUITABLE- BURDEN SHARING RESPONSIBILITY OF REFUGEES - UNITED NATIONS GLOBAL COMPACT ON REFUGEE: BRIDGING GLOBAL NORTH AND SOUTH DIVIDE?

The legal construct of refugee status is incredibly flexible and can differ based on the type and magnitude of the crisis that requires forced migration. The precise delineation of refugee status upholds a nuanced equilibrium between domestic migration regulations and the ethical obligation of the international community to assist those who are compelled to abandon their native lands.[26] Adapting the definitional framework in response to changing social and political conditions is imperative to ensure the significance of refugee status in the international refugee regime. Various scholarly works have emphasized the obligation of States to adjust their international humanitarian framework to offer asylum to those in need, while also rationalizing their decision to decline or withdraw assistance and protection in order to maintain their claims of sovereignty, as they endeavored to classify refugee status based on changing political, social, and economic circumstances.[27] Modern international refugee law has its roots in the post-1950 era, deriving from the historical knowledge and mutually recognized interests of dominant nation-states. It was developed from the Convention Relating to the Status of Refugees (1951) and the Protocol Relating to the Status of Refugees (1967), along with international institutions,[28] regional accords,[29] national laws, and practices. Hathaway (1990) concisely

[26] Hathaway, J.C. (1984). The Evolution of Refugee Status in International Law: 1920—1950. *International and Comparative Law Quarterly*, 33(2), pp.348–380. doi: https://doi.org/10.1093/iclqaj/33.2.348.

[27] Goodwin-Gill, G.S. (2016). The Movements of People between States in the 21st Century: An Agenda for Urgent Institutional Change. *International Journal of Refugee Law*, 28(4), pp.679–694. doi: https://doi.org/10.1093/ijrl/eew040. Miller, D. (2007). National Responsibility and Global Justice. doi: https://doi.org/10.1093/acprof:oso/9780199235056.001.0001. Weiner, M. (1992). Security, Stability, and International Migration. *International Security*, 17(3), p.91. doi: https://doi.org/10.2307/2539131.

[28] The United Nations High Commissioner for refugees (UNHCR) is the primary refugee relief organization of the United Nations, it is assisted by UNRWA (for Palestinian refugees), UNESCO, UNICEF and UNDP and other non-governmental organizations that contribute to its humanitarian assistance programmes. See generally, Corkery, A. (n.d.). *The Contribution of the UNHCR Executive Committee to the Development of International Refugee Law*. [online] Available at: https://www8.austlii.edu.au/au/journals/AUIntLawJl/2006/6.pdf [Accessed 14 Dec. 2023].

[29] See generally, Collection of International Instruments and Legal Texts concerning Refugees and Others of Concern to UNHCR, Vol. 1, 2007. Significant amongst many are OAU Convention Governing Aspects of Refugee Problems in Africa, Resolution of the Council of Europe on Asylum, Recognition of a Right to Asylum

classifies the basic principles of the Convention, which have resulted from the historical and evolutionary development of the international refugee regime.

"First, it maintained a strategically formulated definition-oriented approach in refugee law, wherein providing comprehensive humanitarian or human rights-based protection for all refugees and similarly situated individuals was condemned by most states. Second, an all-encompassing approach to refugee protection was defeated in favor of an Eurocentric legal mandate derived from a highly selective interpretation of global responsibility-sharing. Third, nations have assumed direct responsibility for the process of refugee determination and instituted a legal framework that enables the evaluation of applicants for refugee protection based on various national interest factors."[30]

The rationale behind the codification of international refugee law was to establish a universal standard of conduct for states to offer comprehensive humanitarian aid to refugees devoid of any political bias. Additionally, it aimed to create a framework for determining the accountability of states and other stakeholders. However, contemporary refugee law embodies a more limited set of principles regarding universal humanitarian assistance and human rights ideologies, which serve to achieve political objectives and cater to self-interest. Sovereign nation- states undermine basic rights of human dignity, subsistence and security, further exacerbating the condition of refugees. The responsibility and accountability of a sovereign nation-state in both domestic and international spheres are rooted in the normative order that requires them to show legitimate responsibility by catering to the basic needs of the individuals living within its territorial limits and ensuring the protection of their human rights.[31]

The present international regime for refugees may be viewed as a conciliation between the independent authority of states to manage immigration and the harsh reality of involuntary

in the American Convention on Human Rights of the Organization of American States, Cartegena Declaration etc.

[30] Hathaway, J. C. (1990) A reconsideration of the Underlying Premise of Refugee Law. Harvard International Law Journal 31 (1), pp. 129-184. Hathaway, J.C. (2021). *The rights of refugees under international law*. Cambridge: Cambridge University Press.

[31] See generally, Goodwin-Gill, G.S. and Mcadam, J. (2018). *The refugee in international law*. Oxford: Oxford University Press. HATHAWAY, J.C. (1991). Reconceiving Refugee Law as Human Rights Protection. *Journal of Refugee Studies*, 4(2), pp.113–131. doi: https://doi.org/10.1093/jrs/4.2.113.

migration of vulnerable individuals. The affiliation of international refugee law with the general principles of public international law is stronger than with human rights law, thus allowing dominant states to pursue their political and economic interests in the global context.[32] Modern refugee law positions the sovereign state at a vantage point, whereby they administer accessibility and prerequisites of protection offered to refugees, which varies in each case. The extent to which refugees would be admitted depends on fulfilling or securing their national interests. Contemporary refugee law provides a normative oversight that does not guarantee strict enforceability and the response towards international refugee law has been unfavorable as its mechanisms are no longer effective in balancing the rights of involuntary migrants and those of the states where refugees seek asylum. For refugees themselves, marginal relevance of the international refugee regime has made protection of their human rights seem illusionary.[33]

Scholars, after scrutinizing the contemporary international refugee law apparatus, acknowledged that it is a framework in which governments may consent to bargain their sovereign prerogative for autonomous action in order to manage disputes, foster interdependence, prioritize regional and interest-based solutions, formalize compassionate considerations through the less daunting approach of burden-sharing, and ultimately channel efforts towards facilitating repatriation instead of granting asylum. The rhetoric of human rights regarding refugee law continues to be superficial, due to the incompatibility of states to offer rights-based solutions for refugees.[34] Scholars, particularly in the Global South, have

[32] Goodwin-Gill, G.S. and Mcadam, J. (2018). *The refugee in international law*. Oxford: Oxford University Press.

[33] Hathaway, J. and Neve, R. (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1622/. Gallagher, D. (1989). The Evolution of the International Refugee System. *The International Migration Review*, [online] 23(3), pp.579–598. doi: https://doi.org/10.2307/2546429.

[34] Hathaway, J. and Neve, R. (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1622/. "Western countries have kept a watchful eye on their borders and haven selective in granting asylum. Most European states designed the initial refugee accords for the protection of European refugees and was considered more regional than universal. This seemed to a large extent a relative solution to the increasing problem of involuntary migration. Hathaway suggests regional refugee assistance/ compacts, as an alternative framework within which the needs of refugees might be addressed along humanitarian concerns beyond the dichotomies of current refugee law. V, Chetail. (2014) Are Refugee Rights

indicated that the dominant Eurocentric narrative has contributed to a 'top-down' approach, emphasizing the political and economic interests of western countries in the development of refugee law, which has overshadowed the human rights concerns of refugees. Chimni (1998) has extensively investigated the dichotomies that underlie the discourse on refugees during the post-Cold War era. This discourse exploits the limited scope of international conventions on refugees, which were ratified in the past. While advocating for a policy change towards refugee management and protection, specifically concerning refugee flows, rehabilitation, and resettlement in the Global North. Chimni also takes specific note of the dynamics of forced migratory movements in the Global South and castigates the conduct of Western nations who pursue their national, political and economic interests whilst evading burden- sharing responsibility which has created a division between Europe and the Third World, also known as the North-South divide.[35]

Scholarly research shows that the North-South divide has been created by western nations, with its roots in the non-entrée policy.[36] This policy is based on the belief that refugees from third world nations in the Global South may have fraudulent asylum claims and are only seeking better economic opportunities in the Global North. To date, several studies, especially focusing on the contentions of Western nations have indicated that refugee flows originating from non-western countries or countries in the Global South are due to internal factors (conditions in the country of origin that forces people to flee, like social, ethnic conflicts etc.)

Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law. Human Rights and Immigration, pp.19–72. doi: https://doi.org/10.1093/acprof:oso/9780198701170.003.0002. Amit, R. (2019). Reclaiming Refugee Rights as Human Rights. Pace International Law Review, 31(2), pp.557–557". doi: https://doi.org/10.58948/2331-3536.1391.

[35] Chimni, B. (1998). The geopolitics of refugee studies: a view from the south. *Journal of Refugee Studies*, 11(4), pp.350–374. doi: https://doi.org/10.1093/jrs/11.4.350. HARVEY, C.J. (1999). Talking about Refugee Law. *Journal of Refugee Studies*, 12(2), pp.101–134. doi: https://doi.org/10.1093/jrs/12.2.101. Lim, J. (2012). Immigration, Asylum, and Citizenship: A More Holistic Approach. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn.2126014.

[36] Gammeltoft-Hansen, T. and Hathaway, J. (2015). Non-Refoulement in a World of Cooperative Deterrence. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1485 [Accessed 14 Dec. 2023]. This term was first employed by Hathaway, J. C. (1992) The Emerging Politics of Non- Entrée, Refugees 91 pp. 40-41. In essence, it suggests that whereas refugee law is predicated on the duty of non- refoulement (that refugees shall not be turned away), the politics of non- entrée is based on a commitment to ensuring that refugees shall not be allowed to arrive.

rather than external or international issues, thus, creating the need for a solution within the region of origin of forced migrants.[37] This outlook of the Global North, to create a region-based rehabilitation and resettlement solution of the refugee population, serves their interests to restrict entry, rather than any substantive engagement with the refugee protection regime. Western nations have assiduously designed and implemented policies that restrict most refugees originating from Third World nations, from accessing their jurisdictions, and assert their entitlements to the benefits of refugee law, thus giving rise to a *non-entrée* regime. The politics of *non-entry have* enabled the developed world to adopt a two-sided stance. Developed nations acknowledge that the underdeveloped world will probably be the primary destination for most of the world's refugees[38] and are overburdened, while simultaneously attempting to exacerbate the unjust distribution of responsibility.

Table 1.1 Major Source Countries of Refugee 2021 (Source: UNHCR- Global Trends Report 2022)

Syria	6,848,900
Venezuela	4,605,600
Afghanistan	2,712,900
South Sudan	2,362,800
Myanmar	1,177,000
Democratic Republic of the Congo	908,400
Sudan	825,300
Somalia	776,700
Central African Republic	737,700
Eritrea	511,900

[37] Chimni, B. (1998). The geopolitics of refugee studies: a view from the south. *Journal of Refugee Studies*, 11(4), pp.350–374. doi: https://doi.org/10.1093/jrs/11.4.350. Gammeltoft-Hansen, T. and Hathaway, J. (2015). Non-Refoulement in a World of Cooperative Deterrence. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1485 [Accessed 14 Dec. 2023].

[38] See, Figure 1 and 2. UNHCR Global Trends of Forced Displacement Report, 2018.

Table 1.2. Major Host Countries of Refugee 2021 (Source: UNHCR- Global Trends Report 2022)

Türkiye	3,759,800
Colombia	1,843,900
Uganda	1,529,900
Pakistan	1,491,100
Germany	1,255,700
Sudan	1,103,900
Bangladesh	918,900
Lebanon	845,900
Ethiopia	821,300
Iran (Islamic Republic of Iran)	798,300

The aggregate number of refugees from the top 10 countries of origin make up 82% of the global refugee population in 2021 (the information was collected until May 2021). Over two-thirds of the world's refugees come from just five countries: Syria, Afghanistan, South Sudan, Myanmar and Somalia. Despite being hosted by 127 countries across six continents, a significant percentage (85 percent) of the refugees remained within their regional borders.[39] Turkey remains the country with the highest number of Syrian refugees, while other notable host countries in the region include Lebanon, Jordan, Iraq, and Egypt. Germany stands out among the countries outside the region because of its substantial Syrian refugee population, while other nations, such as Sweden, also hosted Syrian refugees, France, the Netherlands, but significantly less in numbers.

Recent trends show that developing regions continue to assume a disproportionate responsibility for hosting refugees. 33 percent of the overall global total was hosted by the

[39] See figure 2. Global Trends Report 2018 showing major host countries.

cluster of Least Developed Countries, namely Bangladesh, Chad, Democratic Republic of Congo, Ethiopia, Sudan, South Sudan, Tanzania, Uganda, Rwanda, Yemen, and others. The fact that nine out of ten countries hosting refugees are developing nations confirms that less developed countries are the primary option for asylum seekers, mainly because of the reasons mentioned above.[40]

The world refugee regime has intensified the polarization between developed and developing states, leading to a departure from the expected responsibility and burden sharing of the global refugee population. Instead, refugees are predominantly hosted by states with limited capacity to manage the situation. The refugee protection regime should aim to offer a resolution based on human rights that is tailored to the specific circumstances, rather than being limited by states' assigned responsibilities due to geographic coincidences or their relative capacity to manage border control.[41] Numerous scholars have emphasized the necessity of reexamining the basics of modern refugee law to ensure its applicability to the present global refugee crisis. It is crucial to re-conceptualize refugee protection as a remedy for human rights violations and dismantle the non-entrée regime, while ensuring operational effectiveness and equitable burden-sharing duties. These efforts should be conceived within a framework of common but differentiated responsibility among states. A solution-oriented protection regime is required, which emphasizes capacity building and self-sufficiency of the refugee population through skill development, allocation of socio-economic resources, and the development of firm social structures both domestically and globally.[42]

The principle of burden-sharing, which calls for collective action among countries to tackle

[40] UNHCR. (n.d.). *Figures at a glance*. [online] Available at: https://www.unhcr.org/about-unhcr/who-we-are/figures-glance.

[41] Hathaway, J. C. & Neve, A. (1997) Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution- Oriented Protection. Harvard Human Rights Journal 10 pp. 115-214.

[42] Official Documents Burden-Sharing -Discussion Paper Submitted By UNHCR Fifth Annual Plenary Meeting Of The APC. (n.d.). Available at: https://www.iom.int/sites/g/files/tmzbdl486/files/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/rcp/APC/2000-Discussion-Paper-UNHCR-submission-5th-plenary.pdf [Accessed 14 Dec. 2023]. The term common but differentiated responsibility has developed in international environmental law, emphasizing the reality that while states may share a common goal to a healthy environment, each state has differently contributed in its degradation and have varying capacities to contribute to reverse the action. Rio 'Declaration on Environment and Development', June 14, 1992, principle.

the global refugee crisis, is not just a moral tenet but also a legal one. The provenance of the principle can be credited to the post-war epoch and the milieu of refugees, as affirmed in the preamble of the 1951 Convention Relating to the Status of Refugees, providing asylum may impose an unreasonably high burden on particular nations, and the United Nations acknowledges that resolving a problem of international scope and nature requires international cooperation. In the Declaration on Territorial Asylum of 1967, the primary substantial formulation on burden-sharing was included in Article 2 para (2), where it specifies that: where a State finds difficulty in granting or continuing to grant asylum, States individually or jointly or through the United Nations shall consider, in a spirit of international solidarity, appropriate measures to lighten the burden on that State. Article 2 para (4) of the OAU Convention outlines a crucial provision on burden-sharing at the regional level: in cases where a Member State encounters challenges in maintaining the provision of asylum to refugees, said Member State has the option to appeal directly to other Member States and the OAU, in the spirit of African solidarity and international cooperation, these other Member States shall take necessary actions to ease the burden on the Member State granting asylum.[43] The Cartagena Declaration highlights the importance of burden-sharing. In its preamble, it underscores the necessity to promptly appeal for aid from the international community for refugees originating from Central America, either through direct means or by means of bilateral or multilateral agreements, as well as by collaborating with organizations and agencies like UNHCR.[44]

The international and regional conventions/treaties ensure that the principle of burden-sharing, which compels states to cooperate in addressing the global refugee crisis has some legal implications in the international refugee protection system. The presence of opinio juris is clearly evident, as no state has outright refused the concept of burden-sharing. Nonetheless, the current practice of burden-sharing, especially among Western Nation-states, appears to

[43] OAU Doc. BR/COM/XV/SS. 90, Khartoum Declaration on Africa's Refugee Crisis, 1990. Reproduced in International Journal of Refugee Law, Vol. 3 (1991), pp. 153-57.

[44] UN High Commissioner for Refugees (UNHCR), *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America*, June 2013, PPLA/2013/03, available at: https://www.refworld.org/docid/51c801934.html.

suggest a different outcome. The interrelation between the principle of burden-sharing and the principle of non-refoulement has been acknowledged by multiple scholars. Atle Grahl-Madsen has observed that the principle of non-refoulement is an integral aspect of a sacred commitment, however, it is not independent. It is undeniably intricately linked to the principle of burden sharing.The principle of international solidarity and burden-sharing extends to all aspects of the refugee situation, encompassing the enhancement of refugee treatment standards, assistance to states in their protection and support efforts, and the provision of durable solutions for refugees.[45]

It is imperative that we determine a method for ensuring both secure and compassionate care for the refugees (responsibility sharing) and a means of dividing the financial expenses of addressing their protection requirements (burden sharing). The concept of common but differentiated responsibility encompasses the notion of collective protection that balances fulfilling the duty of granting asylum and sharing the financial burden of providing protection.[46] To safeguard refugee rights and mitigate the global refugee crisis, implementing the burden-sharing approach is essential. However, principles of non-refoulement and asylum do not mandate international solidarity and burden-sharing. It is crucial to highlight that a sudden increase or decrease in the number of forced migrants, asylum seekers and refugees could cause an unjustifiable burden on host countries to fulfill their responsibilities towards safeguarding refugee rights. In several countries in the Global South, it is typical to witness this pattern because of the non- entrée regime practiced in the Global North. As a result, a substantial number of refugees or returnees have no choice but to seek asylum within the region, thereby increasing the pressure on host countries who lack sufficient economic resources to cater to the needs of a fluctuating and growing refugee population. Countries that

[45]Atle Grahl-Madsen, 'Refugee in Canada: The Legal Background', in H. Adelman and C.M. Lanphier, eds, Refugee or Asylum: A choice for Canada (York Lanes Press, Toronto, 1991), pp. 1-12 at p. 8.Hathaway, J. C. and Gammeltoft- Hanses, T. (2014) Non- Refoulement in a World of Cooperative Deterrence, Law & Economics Working Papers. 106.

[46] Official Documents Burden-Sharing -Discussion Paper Submitted By UNHCR Fifth Annual Plenary Meeting Of The APC. (n.d.). Available at: https://www.iom.int/sites/g/files/tmzbdl486/files/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/rcp/APC/2000-Discussion-Paper-UNHCR-submission-5th-plenary.pdf [Accessed 14 Dec. 2023].

possess weak economies, deficient infrastructure, and extensive poverty accommodate some of the most significant refugee populations. Impact on the host countries can primarily be observed in four areas: economic, environmental, socio-political, and peace and security domains. An approach to refugee protection that is both reasonable and principled, focused on temporary protection and eventual repatriation, could effectively address the urgent needs of refugee populations while also meeting the migration control objectives of host governments and fulfilling international protection responsibilities.[47]

As demonstrated by the aforementioned dataset, the need for burden-sharing predominantly arises in the current context due to the following reasons: (i) a substantial influx can impose excessively high burdens on specific countries, and without international cooperation, viable solutions cannot be attained (ii) it is the responsibility of states, in the context of international solidarity and burden-sharing, to take all necessary measures to provide assistance to states that have accepted a large number of refugees, if requested to do so (iii) international solidarity and burden-sharing arrangements may be necessary to address the humanitarian consequences of both mass influx and mass return. These arrangements may enable the respective countries of asylum or origin to meet their obligations.[48] It has been observed that certain countries with weak economies, inadequate infrastructure, and widespread poverty also have the largest refugee/returnee populations. Cross-border mass movement or displacement of people is a phenomenon that requires the joint efforts of both the host and source country, along with the participation of the international community, to be effectively tackled. A comprehensive and coordinated response towards refugee management and protection should be facilitated, not only for humanitarian considerations but also for recognizing the extent to which a large refugee/returnee population may impede or jeopardize developmental efforts, both in the Global North and South. The elementary principle of equitable burden-sharing responsibility

[47] Bauböck, R. (2017). Refugee Protection and Burden-Sharing in the European Union. *JCMS: Journal of Common Market Studies*, 56(1), pp.141–156. doi: https://doi.org/10.1111/jcms.12638.

[48] Official Documents Burden-Sharing -Discussion Paper Submitted By UNHCR Fifth Annual Plenary Meeting Of The APC. (n.d.). Available at: https://www.iom.int/sites/g/files/tmzbdl486/files/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/rcp/APC/2000-Discussion-Paper-UNHCR-submission-5th-plenary.pdf [Accessed 14 Dec. 2023].

approach requires an institutional/organizational setup that involves close consultation and negotiated political consensus among concerned governments, a well-defined and coordinated plan of action for managing refugee populations and protecting their rights, inter-agency collaboration based on complementarity of mandates and responsibilities, and a follow-up mechanism for monitoring policy adjustments.

In order to achieve the objective of closing the divide between the Global North and South through reforms in the implementation, institutionalization, and operationalization of the current refugee protection regime, it is imperative that governments take action and adjust their approach accordingly. A collective endeavor is required to enhance the ability of host nations to offer asylum, expedite voluntary repatriation, encourage resettlement and rehabilitation within host territories, offer resettlement opportunities in third countries, provide essential technical and financial support to host nations, and eliminate the factors causing extensive influxes and displacement of people.[49] The necessity of a comprehensive and inclusive response to cross-border movement of people has been underscored by several scholars. In order to achieve this, international and regional burden-sharing mechanisms should be established wherein countries from both Global North and South collaborate in capacity building through the sharing of administrative, technical, and financial resources, as well as monitoring adaptability within existing institutional mechanisms through data sharing.[50]

The 1951 Convention concerning the Status of Refugees and the 1968 Additional Protocol have emphasized the necessity of international collaboration in addressing refugee situations while upholding the principle of state sovereignty equality. Against this background, the international community, in September 2016 and, adopted the New York Declaration for Refugees and Migrants.[51] The Declaration called for an intergovernmental process of

[49] Miller, D. (2008). National responsibility and global justice. *Critical Review of International Social and Political Philosophy*, 11(4), pp.383–399. doi: https://doi.org/10.1080/13698230802415862.

[50] Afriansyah, A. and Banggaditya, A. (2017). REFUGEE BURDEN SHARING: AN EVOLVING REFUGEE PROTECTION CONCEPT? *Arena Hukum*, 10(3), pp.333–356. doi: https://doi.org/10.21776/ub.arenahukum.2017.01003.1.

[51] Refugees, U.N.H.C. for (n.d.). *Refworld | New York Declaration for Refugees and Migrants : resolution / adopted by the General Assembly*. [online] Refworld. Available at:

negotiations to develop a Global Compact for Safe, Orderly and Regular Migration, and a consultative process led by UNHCR, to develop a Global Compact on Refugees.[52] The adoption of the 2018 Global Compact on Refugees is considered a crucial achievement for nations, pertinent global players, particularly UNHCR, and refugees, as it enables the handling of massive refugee movements while guaranteeing a more equitable, predictable, and consistent assistance for refugees and their host communities.[53]

The 2018 Global Compact was created to provide assistance and support to the increasing number of individuals who are displaced due to conflict, violence, human rights violations, poor governance, environmental degradation, and disasters, among other factors.[54] At present, over 68.5 million individuals are displaced, with 25.4 million of them being refugees.[55] The 2018 Compact provides a comprehensive framework for the equitable and predictable distribution of burdens and responsibilities amongst all relevant stakeholders, including but not limited to United Nations Member States, International Red Cross and Red Crescent Movement, humanitarian and development actors, international and regional financial institutions, regional organizations, local authorities, civil society, including faith-based organizations, academics and other experts, the private sector, media, host community members.[56]

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https://www.refworld.org/docid/57ceb74a4.html. Türk, V. (2018). The Promise and Potential of the Global Compact on Refugees. *International Journal of Refugee Law*, 30(4), pp.575–583. doi: https://doi.org/10.1093/ijrl/eey068.

[52]A/73/12 (Part II)* "Report of the United Nations High Commissioner for Refugees General Assembly Official Records Seventy-third Session Supplement No. 12. (n.d.). Available at: https://www.unhcr.org/gcr/GCR_English.pdf".

[53] Türk, V. (2018). The Promise and Potential of the Global Compact on Refugees. *International Journal of Refugee Law*, 30(4), pp.575–583. doi: https://doi.org/10.1093/ijrl/eey068.

[54] Türk, V. and Garlick, M. (2016). From Burdens and Responsibilities to Opportunities: The Comprehensive Refugee Response Framework and a Global Compact on Refugees. *International Journal of Refugee Law*, 28(4), pp.656–678. doi: https://doi.org/10.1093/ijrl/eew043.

[55]Global Trends: Forced Displacement in 2017, UN High Commissioner for Refugees (UNHCR), (Oct. 16, 2019, 12:45 PM), https://www.refworld.org/docid/5b2d1a867.html.

[56] Gastorn, K. (2020) Beyond the Convention Approach: The Added Value of the Global Compact on Refugees, in Burra, S. and Field, J. (2020). "The Global Compact on Refugees: Indian Perspectives and Experiences". [online] www.academia.edu. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences [Accessed 15 Dec. 2023].

Widespread support garnered by the Global Compact on Refugees can be attributed to its dedication to fostering a collective response to safeguard and sustain refugees while concurrently aiding host nations in managing the influx of displaced individuals, as succinctly outlined in its stated objectives namely (i) ease pressure on the host countries; (ii) enhance refugee self-reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return on safety and dignity.[57] At the same time, the 2018 Global Compact is rooted in the fundamental principle of non-refoulement, which underpins the international refugee regime, encompassing the 1951 Convention and its 1967 Protocol, as well as its non-binding, multi-stakeholder framework. The Compact's emphasis on shared responsibility and burden-sharing among all relevant actors has been met with a favorable response from the majority of states.

The 2018 Global Compact on Refugees is operationalized by UNHCR, which pilots the multi-pronged response to targeted refugee crisis situations, whether in the country of origin or host country through significant branches of the compact like, Comprehensive Refugee Response Framework and Global Programme of Action which are tasked to undertake consultation with relevant stakeholders, Member States, civil society, private sector, UN agencies, development partners, financial institutions and NGO's. The Compact underscores the pivotal role of the UNHCR as the primary action-oriented organization in developing tangible mechanisms and methods for establishing humanitarian response plans, refugee response plans, coordination and development models, facilitating the implementation of commitments and comprehensive responses in real-time, and establishing arrangements for burden-sharing and responsibility sharing.[58]

The 2018 Compact additionally presents a follow-up procedure that promotes the evaluation

[57] A/73/12 (Part II)* Report of the United Nations High Commissioner for Refugees General Assembly Official Records Seventy-third Session Supplement No. 12. (n.d.). Available at: https://www.unhcr.org/gcr/GCR_English.pdf.

[58] The Global Compact on Refugees | UNHCR. (n.d.). *The Global Compact on Refugees | UNHCR | Digital Platform*. [online] Available at: http://www.globalcrrf.org/wp-content/uploads/2018/07/ICVA-GCR-Briefing-Paper-June2017.pdf. [Accessed 15 Dec. 2023].

and regular monitoring of member states' contributions, along with all relevant stakeholders, towards their obligations for a comprehensive refugee response. This evaluation takes place during global forums designed to exchange or develop domestic, regional, and international arrangements addressing refugee issues. Member states' participation is determined based on their ability and capacity to undertake such an influx, while also considering their national policies and priorities. The facilitation of the 2018 Global Compact objectives is a crucial responsibility of the UNHCR, promoting international collaboration and response. This involves domestic, regional and global initiatives toward humanitarian aid, public-private partnerships, and the involvement of faith-based actors. Such efforts may support the allocation of resources, the establishment of mechanisms and organizations for refugee management and protection, and the creation of opportunities for refugees and host communities to become self-reliant.[59]

The compact provides specific measures to address the areas of immediate and urgent concern in refugee situations, such as reception and admission, safety and security upon arrival, registration and documentation, initial transit camps, health care, legal representation, and international protection. The UNHCR and all pertinent stakeholders, with their support and involvement, will allocate resources and expertise to incorporate significant refugee movements and enhance national capacities for reception, ensuring the provision of safe and suitable spaces.[60] In addition, they would guarantee the integrity of the refugee protection

[59]The Global Compact on Refugees | UNHCR. (n.d.). *The Global Compact on Refugees | UNHCR | Digital Platform*. [online] Available at: http://www.globalcrrf.org/wp-content/uploads/2018/07/ICVA-GCR-Briefing-Paper-June2017.pdf. [Accessed 15 Dec. 2023]. Appleby, K. (2017). Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugees. *Journal on Migration and Human Security*, 5(4), pp.780–799. doi: https://doi.org/10.1177/233150241700500404. See also, Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences [Accessed 15 Dec. 2023].

[60] Appleby, K. (2017). Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugees. *Journal on Migration and Human Security*, 5(4), pp.780–799. doi: https://doi.org/10.1177/233150241700500404. Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences [Accessed 15 Dec. 2023].

system while simultaneously preventing and combating fraud, corruption, and crime during the registration and documentation process. This process is crucial for both refugees and host nations as it allows for identification of arrivals and facilitates access to essential assistance and protection.[61]

The combination of the Global Compact on Refugees, the Comprehensive Refugee Response Framework, and the Global Programme of Action aims to provide practical solutions that can be adapted to host countries and their unique situations. This approach takes into consideration factors such as reception capacity, level of development, and demographic circumstances in various countries. Additionally, it presents opportunities for the resettlement, local integration, and voluntary repatriation of refugees, while also proposing strategies for implementing burden-responsibility sharing through funding and effective resource utilization - including timely mobilization, engagement of public and private sector funds with utmost transparency, investment in infrastructure, job generation, and economic stability.

The effectiveness of the Global Compact has been a subject of debate among scholars, with many arguing that it offers a series of ambitious goals and objectives aimed at revamping the protection regime for refugees and forced migrants. However, it overlooks several aspects, such as recent trends and causes, particularly the involvement of Western nations behind the origin and outflows of refugees, mechanisms to enforce equitable burden-sharing responsibilities between states in the Global North and South, and dismantling the non-entrée regime to foster international cooperation between the Global North and South through active commitment and specific deliverables. The absence of legally binding obligations in the 2018 Compact also raises concerns about the dedication and responsiveness of nation-states to the current regime for protecting refugees. [62]

[61]Türk, V. and Garlick, M. (2016). From Burdens and Responsibilities to Opportunities: "The Comprehensive Refugee Response Framework and a Global Compact on Refugees. *International Journal of Refugee Law*, 28(4), pp.656–678. doi: https://doi.org/10.1093/ijrl/eew043.

[62]Chimni, B. (2019). Global Compact on Refugees: One Step Forward, Two Steps Back. *International Journal of Refugee Law*, 30(4). doi: https://doi.org/10.1093/ijrl/eey067. Perocco, F. (2019). The potential and limitations of the Global Compact for Safe, Orderly and Regular Migration: A comment. *Torture Journal*, 29(1), pp.127–132. doi: https://doi.org/10.7146/torture.v29i1.112217. Betts, A. (2010). Towards a 'Soft Law' Framework for the Protection of Vulnerable Irregular Migrants. *International Journal of Refugee Law*, 22(2), pp.209–236. doi:

The 2018 Global Compact is symbolic and relevant, as it stems from reflexive legislation designed to foster international cooperation among governments and stakeholders impacted by forced migration. However, the absence of explicit directives and sanctions in the event of non-compliance raises doubts about the intent behind enacting such legislation, which seems to prioritize concealed political motives and pursuing a hypothetical compromise between the origin and host nations. The reception of the Global Compact has been diverse, despite its non-binding nature as soft law. Notably, significant destination countries in the Global North abstained and voted against the 2018 Global Compact. They raised concerns regarding national sovereignty, potential negative impact on national economic growth, and the underlying factors driving contemporary migrations from the Global South to the Global North.[63] While the Global South, particularly the South Asian region, demonstrates a preference for the non-binding burden-sharing framework of the Global Compact, alongside the existing protection framework established by the United Nations 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to Refugees, and the United Nations Treaty on the Rights of Migrant Workers, all encapsulated within a unified document.

The Global Compact is widely regarded for its recognition and respect of every state's sovereign right to control, regulate, and secure migration within their territory. Moreover, it effectively advances its humanitarian objectives without imposing additional responsibilities. This is regarded as a positive change compared to the United Nations' 1951 Convention Relating to the Status of Refugees, 1967 Protocol Relating to Refugees, and other legally binding agreements, particularly in the Global South. While the 2018 Compact aims to create renewed multi-stakeholder possibilities for states to develop efficient and equitable practices for burden sharing, self-reliance among refugees, and addressing irregular migration trends.

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https://doi.org/10.1093/ijrl/eeq018. See generally, the development of soft law framework has been applied to address gaps in international protection in the past, especially in the case of Internally Displaced Persons- a set of Guiding Principles on Internally Displaced Persons" between 1992 and 1998 were developed to fill in the normative gaps and have been relatively effective in filling protection gaps and meeting demands of states, giving clear institutional divisions and responsibility mandates.

[63] Perocco, F. (2019). The potential and limitations of the Global Compact for Safe, Orderly and Regular Migration: A comment. *Torture Journal*, 29(1), pp.127–132. doi: https://doi.org/10.7146/torture.v29i1.112217. Betts, A. (2010). Towards a 'Soft Law' Framework for the Protection of Vulnerable Irregular Migrants. *International Journal of Refugee Law*, 22(2), pp.209–236. doi: https://doi.org/10.1093/ijrl/eeq018.

Importantly, it also ensures compliance with international human rights standards and prioritizes the needs of the most vulnerable migrants. However, owing to its non-binding nature, lack of enforceability and implementation mechanisms, the 2018 Compact represents nothing more than mere rhetoric regarding the potential for a renewed refugee protection framework, subject to member states' discretion. Although it does not undermine the national sovereignty of member states, it is likely to present a challenge for the equitable implementation of rights-based policies and legislation, potentially exacerbating the divide between the Global North and South.[64]

1.3 INDIA'S ENGAGEMENT WITH THE INTERNATIONAL REFUGEE FRAMEWORK

India has refrained from signing the 1951 United Nations Refugee Convention or its 1967 Protocol, which establishes the international legal framework for the protection and rights of refugees. India has elected not to become a signatory to these two prominent conventions for various reasons. First, the convention and protocol demonstrate a Eurocentric bias and do not effectively address the specific concerns of refugees in developing countries such as India. Second, the refugee definition stipulated in the Convention only accounts for individual cases and identity, thus failing to recognize the large-scale influx of refugees faced by India. Third, there has been insufficient attention given to the situation of mixed flows, particularly in India, where a considerable number of refugee and asylum seeker cases are, in reality, economic migrants. Last, the Convention does not offer any guidelines for assigning responsibility among the host nation, other member states, or the country of origin and there is no mention

[64]Betts, A. (2010). *International Conference on Population and Development, Cairo 1994 'Doyle Report' on International Migration 2002 Global Commission on International Migration (GCIM) 2003-5 First UN High-"Level Dialogue on Migration and Development 2006 First Global Forum on Migration and Development (GFMD) 2007 Launch of ICMC's 'Conversations' 2009 Second UN High-Level Dialogue on Migration and Development 2013 Timeline of Global Migration Governance Global Migration Governance -the Emergence" of a New Debate*. [online] Available at: https://www.geg.ox.ac.uk/sites/default/files/Betts%20Global%20Migration%20Governance%20PB.pdf.

of the concept of international burden-sharing at a global level.[65]

Besides the aforementioned rationales, there are other domestic and policy factors that explain India's decision to abstain from becoming a party to these agreements, at the same time strategically negotiate its position while concurrently delivering humanitarian aid and protection to a substantial refugee population. First, geopolitical factors and security concerns regarding the complex security environment and strategic positioning of India have given rise to apprehensions about potential security threats originating from neighboring countries. By signing the Refugee Convention and Protocol, India would assume the responsibility of hosting and safeguarding refugees, potentially creating complexities for its national security endeavors. Second, India has endured border disputes and tensions with certain neighboring countries. The act of signing the Refugee Convention might suggest acceptance of territorial claims made by these countries, a position that India is not inclined to adopt. Third, the large influx of refugee population poses a significant challenge for India, encompassing Tibetans, Sri Lankan, and Rohingya Muslims from Myanmar, among other nationalities. Signing the convention would entail a formal obligation to protect and support these refugees, potentially exacerbating the country's existing resource constraints. Fourth, India's approach to refugee issues often involves bilateral agreements with specific countries, rather than the adoption of the global convention. These agreements enable India to customize its approach in accordance with the specific circumstances of each refugee group. Last, India's own complex domestic issues, such as regional conflicts, poverty, and internal displacement, take precedence on the government's agenda. Dealing with these challenges often leads to a shortage of resources and a lack of political commitment to fulfill international obligations regarding refugees.[66]

Therefore, India's decision to abstain from signing the 1951 Refugee Convention and 1967 Protocol is influenced by a blend of national security concerns, sovereignty considerations, existing bilateral agreements, and domestic complexities. The country's approach towards

[65] S. Irudaya Rajan (2022). The Routledge Handbook of Refugees in India. Routledge eBooks. doi: https://doi.org/10.4324/9781003246800.

[66] Burra, S. (2022). India's refugee protection obligations beyond the 1951 Refugee Convention and the 1967 Protocol. *The Routledge Handbook of Refugees in India*, pp.183–191. doi: https://doi.org/10.4324/9781003246800-14.

refugees is a reflection of the intricacies of its geopolitical circumstances and the imperative to reconcile humanitarian considerations with its national interests. It is worth mentioning that India's stance on this issue has experienced a significant transformation over the years. Although the country has not ratified the Refugee Convention, it has implemented measures to offer temporary sanctuary to different groups escaping persecution. India's position on refugee matters remains adaptable and responsive to evolving conditions. By situating itself within the international refugee regime, India acknowledges the principle of common but differentiated responsibility. This allows India to rationalize its obligations in handling the influx of refugees and asylum seekers according to its capacity and capability. Despite the challenges faced, India has shown its commitment to upholding international human rights law and international humanitarian law, as evidenced by its accession to various conventions, treaties, agreements, and principles. India has taken a firm stance in advocating for the rights and dignity of all individuals, including those seeking asylum.[67]

In line with the recent progress, India has also aligned itself with the 2018 United Nations Global Compact on Refugees, signifying the Indian Government's genuine dedication to advocating and securing essential human rights for refugees, which include but are not limited to voluntary repatriation, the right to seek asylum, and a minimum standard of treatment in the host country. It is possible that, in the absence of a national legislation for refugee governance, the Global Compact could be a step towards revamping India's approach to engaging with the influx of refugees. The factors due to which, India, had shown reluctance in singing the 1951 Refugee Convention and 1967 Additional Protocol, seem to have been resolved under the Global Compact, which specifically underlines; immediate need for region- country specific refugee response, multi-stakeholder approach; involvement of NGO's, private sector organizations, financial institutions, civil society, UN agencies etc., burden-responsibility sharing though financial assistance and admission of refugees, effective and efficient use of

[67] Sami, B.D. (2022). The Refugee Convention of 1951. *Routledge eBooks*, pp.192–201. doi: https://doi.org/10.4324/9781003246800-15. Burra, S. (2022). India's refugee protection obligations beyond the 1951 Refugee Convention and the 1967 Protocol. *The Routledge Handbook of Refugees in India*, pp.183–191. doi: https://doi.org/10.4324/9781003246800-14.

funding and resources, creating livelihood opportunities for self-reliance of refugees and recognizing the capacity, capability and policy/ legal obligation of the State to host refugees whilst catering to the need of its host communities.[68]

The 2018 Global Compact's multi- stakeholder approach in the Indian context would create a broader opportunity to assimilate, access to protection, securing basic socio-economic rights of subsistence for the refugees, at the same time would assist the host communities and local governments to organize, manage and utilize the resources available vis-à-vis refugee population within its territorial jurisdiction. Further, the 2018 Global Compact on Refugees could be a stepping-stone for framing a national asylum legislation and to recover the refugee protection regime in India. The encouraging response India has shown towards accepting the Global Compact on Refugees is a beginning in the right direction of a much -needed transformation in the policy framework and initiation of a dialogue to create a comprehensive national legislation towards protecting refugees. [69]

The Indian government, civil society and others are already undertaking work similar to the objectives underlined in the 2018 Global Compact, for instance, civil society actors and refugee groups have been working towards enhancing refugee self-reliance within India. As in the case of the Tibetan exile population, the GoI, Ministry of Home Affairs along with the members of the CTA and Tibet Policy Institute, devised the Tibetan Rehabilitation Policy 2014, which guarantees welfare benefits and facilitates the realization of socio-economic rights for the Tibetan exile community to be distributed throughout all states. In terms of "responsibility-sharing" and easing pressure on host countries, India has taken an active role internationally in providing assistance to other states responding to mass refugee

[68] Saxena, P. Raja, N. (2020). The Global Compact on Refugees: India's Stepping- Stone to a National Asylum System. *The Global Compact on Refugees: Indian Perspectives and Experiences,* pp. 76-88. Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences.

[69]Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences.

movements—particularly in the South Asian region. It is crucial to acknowledge that the Indian Constitution and legal precedents have already established the basis and framework for a domestic legal system. What is needed is a consistent implementation of laws and policies that align with the international legal regime for refugee protection.[70]

In addition, scholars, particularly those from the Global South, have proposed that in order to address refugee crises effectively, the international community should devise a bottom-up strategy for enhancing governance at lower levels before carrying out global reforms. The adaptability of refugee regimes to the changing landscape of cross-border movement is largely determined by the development of state capacity, national legal system, bureaucratic identity, cultural and demographic context, and political will, especially in developed countries of the Global North. The 2018 Global Compact is already being seen as an instrument that offers a roadmap for collective responsibility, multi-stakeholder partnership approach which is inclusive of the voices of the vulnerable refugee groups in formulation and implementation of legal protection regime for refugees and reducing the gap between international and domestic implementation of refugee norms.[71] In the Indian context, special relevance can be given to the case of the Tibetan exile population and their fight to return to their homeland. Within the Tibetan context, my interactions in the field, especially with the CTA officials played a vital role in signifying the importance of including refugee narratives not only to foster global support for safe and voluntary return of refugees to their homeland,[72] but also in a way that,

[70] Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experiences.

[71] Tiwari, A.D. (2020). The Potential Role of the National Human Rights Commission of India in Operationalizing the Global Compact on Refugees. *The Global Compact on Refugees: Indian Perspectives and Experiences*, pp.90-106. Burra, S. and Field, J. (2020). *The Global Compact on Refugees: Indian Perspectives and Experiences*. [online] *www.academia.edu*. Available at: https://www.academia.edu/41865782/The_Global_Compact_on_Refugees_Indian_Perspectives_and_Experienc.

[72] In the present case- Tibetans gathering support from the international community for their Movement- to negotiate their return to Tibet and gain genuine autonomy, (e.g. United States Congress passing the Tibetan Policy and Support Act 2020, which give recognition to the Central Tibetan Administration in Dharamshala, Indian as the Official Government for Tibetans in Exile.)- Information obtained from Interviews taken during field study at Leh, Dharamshala and Darjeeling. Bhaumik, DHNS, A. (n.d.). *US Congress passes Tibetan Policy and Support Act, making it official policy on Tibetan rights*. [online] Deccan Herald. Available at:

refugees can be seen as empowered actors traversing beyond boundaries of territory and belonging to negotiate their status within the domain of International refugee law discourse and policy making.

Therefore, re-conceiving international refugee protection regime by considering a bottom-up approach would improve lower level of governance before employing reforms at global level, as it appears to be a practical and crucial measure for effective international response to refugee crisis; factors like state capacity, national legal system, bureaucratic identity, cultural and demographic context of countries especially in the Global south, including voices of various refugee groups and most importantly political will of burden sharing and showing international solidarity especially of developed countries in the Global North will determine how refugee regimes nationally and internationally can adapt to the changing times of cross-border movement. A cohesive and regularized support from all relevant domestic actors at the same time international cooperation is the need of the hour across time and spaces, especially India. The Global Compact's objectivity and commitment to follow the cardinal principles of international refugee law set out in the refugee conventions and protocols are undoubtedly able and competent to tackle the root cause of large-scale refugee movements and their rehabilitation by considering refugees as key contributors and assets for their host communities, not only as the holder of rights but also responsibilities for States. Thus, inclusive efforts of the State, humanitarian and development actors at international, regional and domestic level to support the refugees and the host communities, will create a space for stronger mechanism to implement the objectives; restructuring the existing working methods, development schemes, support forums and making them adequately responsive to targeted refugee situations and is deemed as a much need action by the international community towards growing refugee crisis.

India is recognized for receiving a significant influx of refugees and asylum seekers from its neighbouring nations. Throughout history, there has been a consistent pattern of accepting

https://www.deccanherald.com/world/us-congress-passes-tibetan-policy-and-support-act-making-it-official-policy-on-tibetan-rights-930421.html [Accessed 15 Dec. 2023].

refugees, beginning with the India-Pakistan partition, the Tibetan exodus, the formation of Bangladesh, and, most recently, the Rohingya of Myanmar. Despite serving as a host to various refugee populations, India lacks a national framework to guarantee their protection. The Indian legal framework does not possess a standardized law to handle its extensive refugee population and has made limited advancements in formulating one. The criteria used to determine the treatment of incoming refugees include their nationality, political factors, and, to some extent, ethnic-religious affiliations. This raises doubts about the equal treatment of refugee communities.[73]

As previously mentioned, it is important to note that India is not a signatory to the 1951 Convention and its 1967 Protocol, thus it is not required to have a domestic law ensuring uniform protection for refugees. Despite this, the legal framework includes multiple laws and constitutional provisions that address refugee-related matters. It is important to acknowledge that India has signed many international treaties and laws including the Human Rights Declaration 1948, and accepted the Bangkok Principle on the Status and Treatment of Refugees in 1966, UN Declaration on Territorial Asylum (1967), the International Convention on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, etc. that address the comprehensive protection of human rights for refugees. The Indian Judiciary has diligently embraced the duty of safeguarding the rights of these vulnerable groups, aligning with international treaties, conventions, provisions of the Indian Constitution, and separate acts governing the protection and rehabilitation of refugees and asylum seekers. Detailed discussion on these matters will follow in the subsequent chapter. However, in light of the absence of a standardized national legislation to ascertain the status and protection of refugee groups, a persistent inquiry arises regarding the legality or illegality of their status and residence, which fluctuates in accordance with the discretionary policies implemented by the governing body or authority. Furthermore, with the passage of time, specific legislations and regulations such as the National Register of Citizens (NRC) and

[73] Ajeet Kumar Pankaj and Datta, A. (2022). International refugee law and the Indian state. *Routledge eBooks*, pp.170–182. doi: https://doi.org/10.4324/9781003246800-13.

Citizenship Amendment Act 2019 (CAA 2019) have been enforced, aimed at distinguishing illegal migrants from refugees. Consequently, apprehensions have arisen regarding the fair and unbiased treatment of refugees in relation to their human dignity and rights.

The upcoming chapter will provide an overview of the current refugee regime, accompanied by a comprehensive portrayal of the arrival, organization, and rehabilitation of the Tibetan Exile population in India as a case study. The chapter examines the design and implementation of laws and regulations concerning refugees in India, focusing specifically on Tibetans. The chapter begins with a concise historical overview of the migration/movement of individuals, particularly refugees, in the Indian context. This is accomplished by utilizing existing literature and secondary sources. Following that, the chapter emphasizes the influence and progress of global humanitarian instruments on domestic state actors, including the oversight role of the Indian Judiciary and the Indian Constitution in managing the processes pertaining to the acceptance, relocation, rehabilitation, and repatriation of refugees and asylum seekers within the nation's boundaries.

CHAPTER 2

REFUGEES AND THE LAW IN INDIA: STATUS OF TIBETAN EXILE COMMUNITY IN INDIA

ABSTRACT

The present chapter provides an overview of the current refugee regime, alongside an in-depth portrayal of the arrival, organization, and rehabilitation of the Tibetan Exile population in India. The thesis study examines the design and implementation of legislations, policies, and regulations that govern refugees in India at large, focusing specifically on Tibetans. By drawing upon existing literature and secondary sources, the chapter begins with a concise historical account of the phenomenon of migration/movement of people (refugees) in the Indian context. Moreover, this thesis chapter delineates the progress and influence of international humanitarian instruments on domestic state actors, such as the involvement of the Indian Judiciary and the Indian Constitution in overseeing the processes of admission, resettlement, rehabilitation, and repatriation of refugees and asylum seekers within the territory. The discussion transitions from a macro level to a micro level analysis when the chapter highlights the current legislations, policies, and regulations that govern the Tibetan exile population. This includes their legal status, resettlement, and rehabilitation under the supervision of both the Indian Government and the Central Tibetan Administration. The concluding section of the chapter depends on significant literature written by experts in the field and provides an understanding of the fundamental ideas that contribute to the formation of the Tibetan exilic identity. This identity is characterized by a strong sense of community, deeply rooted in their culture and traditions. In my argument, I maintain that despite significant accomplishments in rehabilitation, the Tibetan community living in exile for over six decades continues to encounter arbitrary treatment in India, particularly in relation to their legal status, membership/ citizenship claims, employment opportunities, access to higher education, and other domains. This obstacle impedes their overall progress as a community, both collectively and individually.

2.1 INTERPLAY OF DOMESTIC REFUGEE LEGISLATIONS AND STATE ACTORS WITH THE REFUGEE POPULATION

The phenomenon of refugees in international relations is as ancient as the formation of nation states. Movement of individuals has persisted throughout history, whether prompted by natural disasters, violence, or nonconformity to religious and political ideologies. The emergence of such identity resulted in the persecution of minorities and individuals who refused to conform to the majority characteristics or ideologies of the nation state, leading them to seek refuge in other countries. The arrival of refugees in India can be traced back to the 8th century, when Zoroastrian refugees sought asylum in the country to safeguard their cultural and religious heritage following the Arab conquest of Persia. The partition of India and Pakistan in 1947 and the subsequent formation of Bangladesh in 1971 were pivotal events that gave rise to refugee movements in the South Asian region.[74] In her analysis of totalitarianism in Europe, Hanna Arendt highlighted the relationship between State building and the emergence of refugees, a connection that is applicable to the present era as well.[75]

The evolution of historical and cultural relations in South Asia has always been shaped by the movements of people. However, in the post-colonial era, such movements have frequently been involuntary or coerced. When analysing the population composition of the South Asian region, the importance of refugee movements becomes more evident. The main cause of involuntary or forced movements of people, both within and across territorial boundaries, has often been state repression based on ethnic or political reasons, or the state's failure to provide economic or social security. States, especially in the South Asian region, are not yet stabilized. While in pursuit of nation-building, numerous nation-states persecuted and expelled minority populations and individuals who resisted adopting the ideological or religious identities of the dominant groups. Several minority groups, who are discontented with the attitudes and policies

[74] Tarzi, S.M. (1991). The nation-state, victim groups and refugees. *Ethnic and Racial Studies*, 14(4), pp.441–452. doi: https://doi.org/10.1080/01419870.1991.9993721. See also, ZOLBERG, A.R. (1983). The Formation of New States as a Refugee-Generating Process. *The ANNALS of the American Academy of Political and Social Science*, 467(1), pp.24–38. doi: https://doi.org/10.1177/0002716283467001003.

[75] Arendt, H. (2019). *The origins of totalitarianism*. United States: Franklin Classics.

of the dominant groups, have resorted to demanding self-determination and the right to statehood, even if it means the fragmentation of the state. As a result, there is political instability, conflict, unrest, and a significant rise in refugees and asylum seekers. Moreover, the existence of continuous, permeable borders and socio-cultural communities across the border in the region contributed to the smooth flow of refugees.[76] Refugees pose challenges in terms of national integration, national security, and settlement and resettlement across all impacted regions. Divergences can be observed when discussing the topics of repatriation and resettlement of the refugees. The ongoing state of distrust and hostility among the countries epitomizes an inherent instability and an intractable challenge in the region. Hence, it is crucial to scrutinize and evaluate the spatial distribution of refugees and the underlying factors that contribute to the refugee problem in the South Asian region, focusing particularly on ethnic conflicts and their destabilizing effects.

The diverse population observed in modern-day India results from migration during ancient, medieval, and contemporary periods, which continues to shape the demographics on a daily basis. It is challenging to accurately trace the causes of migration before the 19th century. Primarily, such spatial mobility was associated with responding to natural disasters, agricultural and trade pursuits, the strategic and geopolitical positioning of kingdoms (colonization), as well as religious, cultural, and caste-based movements that connected the Indian subcontinent to the global stage. In the aftermath of decolonization, forced migration has become a significant aspect of population movement in India. This involuntary displacement, caused by economic booms and recessions, urbanization, seasonal employment, environmental calamities, wars, and riots, has played a pivotal role.[77]

[76] Sheth, D.L. (1989). Nation-Building in Multi-Ethnic Societies: The Experience of South Asia. *Alternatives: Global, Local, Political*, 14(4), pp.379–388. doi: https://doi.org/10.1177/030437548901400401. Buchignani, N. and Phadnis, U. (1992). Ethnicity and Nation-Building in South Asia. *International Migration Review*, 26(1), p.183. doi: https://doi.org/10.2307/2546956. Chinmay Tumbe (2018). *India moving a history of migration*. Gurgaon, India Penguin Random House.

[77] Chinmay Tumbe (2018). *India moving a history of migration*. Gurgaon, India Penguin Random House.

The Partition of India and Pakistan in 1947, followed by the Partition of Bangladesh,[78] were significant events of the 20th century. They impacted not only the people within the Indian territory but also the entire South Asian region due to mass migration.[79] One of paradigmatic consequences resulting from both the Partitions was its profound impact on the nature of involuntary migration in India and South Asia. As a result, state polities regarding the provision of relief and rehabilitation for displaced individuals, evacuees, refugees, and infiltrators underwent significant transformations.[80] The process of establishing the claims of national identity, domicile, and citizenship for individuals displaced on the western and later on the easter front, who were in a state of limbo, was facilitated by several legislations related to political, social and economic circumstances. These legislations led to a shift in terminology from "displaced persons" and "refugees" to illegal migrants".[81]

Following the liberation of Bangladesh in 1971, the political landscape shifted towards refugees and displaced individuals, particularly in the State of Assam. This shift was driven by the prevalent anti-migrant sentiment targeting Bengali Muslims migrating from Bangladesh.[82] These Bengali refugees were considered by the Indian government as economic migrants who had entered the Indian territory illegally and clandestinely, driven by the desire for better economic opportunities rather than by the fear of persecution. However, the reshaping of identities depended on the native and political sentiment that prevailed at that time.[83]

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[78] 1971 (the partition of India resulted in the movement of about 10–12 million people, and the 1971 Indo-Pak war caused another 10 million to migrate to the state of Assam in India).

[79] UNHCR (2000) The state of the world's refugees 2000: Fifty years of humanitarian action. Available at: https://www.unhcr.org/en-us/publications/sowr/4a4c754a9/state-worlds-refugees-2000-fifty-years-humanitarian-action.html.

[80] Roy Haimanti, Partitioned Lives: Migrants, Refugees, Citizens in India and Pakistan, 1947-65 (2012) History Faculty Publications Paper 21 http://ecommons.udayton.edu/hst_fac_pub/21.

[81] Displaced Persons (Institution of Suits) Ordinance, 1948 [Ordinance No. XVIII of 1948], Displaced Persons (Debt Adjustment) Act, 1951 [Act No. 70 of 1951], Resettlement of Displaced Persons (Land Acquisition) Act, 1948 [Act No. 60 of 1948], United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 [U. P. Act No. 26 of 1948], Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 [Act No. 38 of 1950], East Punjab Refugees (Registration of Claims) Act, 1948 [Act 8 of 1948], East Punjab Displaced Persons (Land Resettlement) Act, 1949 [Act No. 36 of 1949].

[82] The historical migration of Bengali Muslims to Assam in the Northeast region persisted even after the liberation of Bangladesh in 1971, resulting in tensions based on region, religion, language, and nationality. As a result, the Illegal Migrants (Determination by Tribunals) Act of 1983 was enacted.

[83] The Son of Soil movement in Assam focused primarily on the detection and deportation of illegal Bangladeshi immigrants. As per the Foreigner's Act 1946, it was incumbent upon the accused to establish their Indian

Indian government has always operated under an open border policy with its neighbors, whether due to the aftermath of the Partitions, sharing vast porous borders with its neighbours or to maintain geopolitical relations in the South Asian region by following the motto 'Neighbor First'. The state has welcomed and supported multiple influxes of refugees escaping persecution based on their religion, ethnicity, politics, or ideology from neighboring homelands. Tibet, Sri Lanka, Myanmar, Afghanistan, to name a few.

Table 3. Recognized Asylum Seekers and Refugees in India, 2023

Country/ Territory of Origin	Number of Asylum seekers/ Refugees
Sri Lanka*	91,534
Tibet*	73,404
Myanmar**	30,513
Afghanistan**	12,692
Others**	4,095

*Numbers from Sri Lanka and Tibet are for refugees registered and helped by the Indian Government. ** Asylum seekers and Refugee are registered with the UNHCR (United Nations High Commissioner for Refugees).
(Source: UNHCR, September 2023 India fact sheet, UNHCR, Geneva. Available: https://reporting.unhcr.org/india-factsheet-6140)

India has dealt with a continuous influx of refugee groups like the Tibetans (1959), Bangladeshis (1971), Chakmas (1963) Sri Lankan Tamils (1983, 1989, 1995), Afghans and recently Rohingyas as mentioned above.[84] The nation has a long tradition and experience of providing humanitarian assistance to refugee groups[85] upholding the spirit of the Indian Constitution to provide for all persons to be treated in a fair and just manner guaranteeing

nationality. As a result of the local unrest, a new legislation called the Illegal Migrants (Determination by Tribunals) Act, 1983 (IMDT) was enacted for Assam. This law specifically defined foreigners as individuals who established residency in Assam after 25 March 1971. Nevertheless, the law was deemed ineffective as the denouncer bore the burden of proof in demonstrating someone's illegal incursion. Consequently, it was declared unconstitutional in the landmark case of Sarbananda Sonowal vs Union of India in 2005.

[84]Jayshree Satpute and Md. Saood Tahir (2011). *Refugees and the Law*. Socio Legal Information Centre.

[85] Ranabir Samaddar (2003). *Refugees and the State*. SAGE Publications Pvt. Limited.

equality, dignity and due process of law.[86] The Indian Government has officially acknowledged specific refugee groups, such as Tibetans and Sri Lankan Tamils, who have received direct support from the government in terms of identity documents, transit camps, food supplies, and medical facilities. Conversely, numerous refugees, such as Somalis, Afghans, and Rohingya, who lack recognition from the Indian Government, heavily depend on UNHCR aid. The Don Bosco, YMCA, as well as SLIC ("Socio-Legal Center") are among the groups that provide assistance to them, and they also get a small monthly subsistence stipend from the UNHCR's implementing partners in Delhi. These organizations assist refugees in finding suitable accommodation, facilitate access to education for young adults and children, provide psychosocial support and vocational training, as well as offer assistance with legal matters and documentation procedures.[87]

While India is not a signatory to the two most significant convention dealing with the status and protection of refugees, the 1951 Convention Relating to Refugees Status and the 1967 Additional Protocol. However, India has acknowledged and exhibited a long-standing application of the concept of non-refoulement, which is a cornerstone of refugee law.[88] When the Bangkok Principles on the Status and Treatment of Refugees were adopted in 1966, questions about the status and treatment of refugees, voluntary and involuntary repatriation, the right to asylum, and the basic standard of treatment for refugees were addressed at the regional level.[89] Also, it is vital to acknowledge that India has signed many international treaties and

[86]Article 21: Right to life or personal liberty, Article 14: Right to Equality, Article 20: Right against prosecution, Article 22: Safeguard against arbitrary arrest and detention, Article 25-28: Freedom of Religion "The Constitution of India." A liberal interpretation by Supreme Court in National Human Rights Commission v State of Arunachal Pradesh and Another (1996) stated that all refugees within the Indian Territory are guaranteed the right to life and personal liberty enshrined in Article 21 of the Constitution, thereby safeguarding their right to live with human dignity.

[87] Jayshree Satpute and Md. Saood Tahir (2011). *Refugees and the Law*. Socio Legal Information Centre.

[88]The principle of non-refoulement serves as the fundamental basis of international refugee law. This principle signifies the dedication of the international community to guarantee the enjoyment of human rights for all individuals, encompassing the right to life, freedom from torture, inhumane or degrading treatment or punishment, as well as liberty and security of person. According to Article 33(1) of the 1951 Convention relating to the Status of Refugees, no Contracting State is permitted to expel or return a refugee to frontier territories where their "life or freedom would be at risk due to their race, religion, nationality, membership of a particular social group, or political opinion.

[89]The Bangkok Principles are declaratory by nature but the clauses, which are the result of long and fruitful negotiations, show a community of views among Member States on what a refugee is today in those regions that

laws including the Universal Declaration on Human Rights 1948, and accepted the Bangkok Principle on the Status and Treatment of Refugees in 1966, UN Declaration on Territorial Asylum 1967, the International Covenant on Economic, Social and Cultural Rights 1966, and the International Convention on Civil and Political Rights 1966, Convention on Elimination for all forms of Racial Discrimination 1965 etc. that address the comprehensive protection of human rights for refugees.[90]

Several research studies have demonstrated that despite India's alignment with various regional and international treaties and conventions regarding refugee protection, it remains somewhat invisible in terms of domestic/national legal frameworks for refugee protection. The Indian state has frequently been regarded with scepticism regarding its protection of different refugee groups arriving at its borders. Where on one side, it has granted asylum or 'mandate refugees' (assisted by UNHCR) to many Tibetan, Si Lankan and Afghan refugees, respectively. Conversely, the current political and social climate regarding the treatment of Rohingya refugees as illegal and a national security threat due to their ethnic and religious backgrounds has prompted apprehension regarding the Indian government's arbitrary and prejudiced position towards various refugee groups, as well as its dedication to international humanitarian obligations.[91]

India lacks a national framework for the determination of refugee status, admission processes, documentation, protection of rights, and legal representation.[92] Efforts have been made in the past to draft a national legislation aimed at governing refugees, however, these attempts have proven unsuccessful. Despite its comprehensive provisions on the definition of the refugee, the application procedure for refugee status determination, the rights, and duties of refugees, non-

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have long and rich experience in dealing with refugees. See, Bentz, A.-S. (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016.

[90] Bhattacharjee", S. (2008). India Needs a Refugee Law. *Economic and Political Weekly*, [online] 43(9), pp.71–75. Available at: https://www.jstor.org/stable/40277209.

[91] Ajeet Kumar Pankaj and Datta, A. (2022). International refugee law and the Indian state. *Routledge eBooks*, pp.170–182. doi: https://doi.org/10.4324/9781003246800-13. S. Irudaya Rajan (2022). Refugees. *Routledge eBooks*, pp.3–32. doi: https://doi.org/10.4324/9781003246800-2.

[92] The principal Indian laws relevant to refugees are Foreigners Act, 1946 (Sections 3, 3A, 7, 14); Registration of Foreigners Act, 1939 (Sections 3, 6); Passport (Entry into India) Act, 1920; Passport Act, 1967 and Extradition Act, 1962.

refoulement, voluntary repatriations, and the establishment of the Commissioner of Refugees authority, the Indian Model Law on Refugees 1997, drafted by Justice P.N. Bhagwati, was not enacted.[93] In light of the principles outlined in the Indian Constitution and India's international obligations, the Asylum Bill 2021, was recently presented in the Lok Sabha. The 2021 Bill aimed to establish consistency in the recognition of asylum seekers as refugees and to enhance accountability in managing refugees. It sought to address the challenges faced by the vulnerable population, while also considering the humanitarian and security interests of India.[94] Nevertheless, the bill did not receive significant attention in terms of discussion. As a result, the refugee population is exposed to the discretionary regulations and rules of the State and Local Govt Authorities, due to the limited range and scope of current policies and archaic legislations.

At this juncture it is important to briefly trace the collective range of legislations and orders enacted by Indian government which govern the refugee population, including the Tibetan exile community, within its territory. Passport (Entry into India) Act of 1920, and Passport Act, 1967, The Registration of Foreigner's Act of 1939, The Foreigner's Act of 1946, Foreigners Order 1948, The Citizenship Act 1955 and the Citizenship (Amendment) Act 2019, etc.[95] The Acts specify that being in the country without valid travel, identity documents, registration

[93] Sagar, A. and Ahmed, F. (2022). *The Model Law for Refugees: An Important Step Forward?* [online] Scholarship Repository. Available at: https://repository.nls.ac.in/nlsir/vol17/iss1/6?utm_source=repository.nls.ac.in%2Fnlsir%2Fvol17%2Fiss1%2F6&utm_medium=PDF&utm_campaign=PDFCoverPages [Accessed 27 Dec. 2023]. www.worldlii.org. (n.d.). *Model National Law On Refugees - [2001] ISILYBIHRL 19*. [online] Available at: http://www.worldlii.org/int/journals/ISILYBIHRL/2001/19.html.

[94] The Asylum Bill 2021. (n.d.). Available at: http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/45%20of%202021%20As%20(PDF).pdf. PTI (2022). *Tharoor introduces bill in LS seeking establishment of system to protect refugees & asylum-seekers*. [online] The Print. Available at: https://theprint.in/india/tharoor-introduces-bill-in-ls-seeking-establishment-of-system-to-protect-refugees-asylum-seekers/821827/ [Accessed 27 Dec. 2023].

[95] Under the Foreigners Act 1946 and Foreigners Order 1948 there are several orders which have been enacted to govern the entry, exist, travel, residence and movement of refugees with the Indian territory. The Foreigners (Exemption) Order, 1957, The Foreigners (Protected Area) Order, 1958, The Foreigners (Restriction on Movements) Order, 1960, The Foreigners (Restriction on Activities) Order, 1962, The Foreigners (Internment) Order, 1962, The Foreigners (Restriction on Chinese Nationals) Order, 1962., The Foreigners (Restricted Areas) Order, 1963, The Internees (Discipline and Offences) Order, 1963, The Foreigners (Tribunals) Order, 1964, "The Foreigners (Restriction on Pakistani Nationals) Order, 1965, The Foreigners (Restriction on Residence) Order, 1968, The Foreigners (Report to Police) Order, 1971, The Foreigners (Restriction on Pakistani Nationals) Order, 1971, The Foreigners (Proof of Identity) Orders of 1983, 1985, 1986, 1987 1988" and 1999.

certificate, and complying with restrictions on citizenship, residency, reporting, association, and movement is considered an offense, consequently, categorizing refugees as illegal migrants facing the possibility of deportation.[96] The acts mentioned above, primarily concerning immigration law documents, establish significant discretionary powers for the executive branch to wield against individuals found without a valid passport or visa. In the absence of any subcategories specifically addressing refugees, they can be apprehended, detained, and deported, just like any other overstaying or illegal foreigner. As a result, in theory, this has the potential to contravene fundamental notions of international refugee law concerning non-refoulement.

The present study in addition to previous scholarly works highlight the complexity and arbitrary nature of refugee governance in India. One can take the example of the Tibetan case study, the legal status of Tibetans in India is currently being determined in accordance with

The Statutory Rule and Order 1108 of 1950, The Passport Act of 1947, and The Foreigners Acts of 1939 and 1946.[97] The Tibetans who came to India after 1950 are not officially recognized as "refugees" under Indian legislation. In accordance with Section 4(2) of the Passport Act 1947, these migrants are officially referred to as "people with Tibetan Nationality" or "stateless" as per the existing legislation. Furthermore, in line with all non-citizens worldwide, they fall under the category of 'foreigners' as stipulated in section 2(a) of the Foreigners Act of 1946 and section 3(a) of the Registration of Foreigners Act of 1939. The term "refugees" typically refers to individuals who flee their home country owing to fear of persecution on grounds of

political opinion, nationality, religion, race, or membership in a particular social group, as outlined by the 1951 Refugee Convention. However, the Tibetans living in Dharmshala, India since 1950, are officially documented as Tibetans in exile rather than Tibetan refugees. As a

[96] Jayshree Satpute and Md. Saood Tahir (2011). *Refugees and the Law*. Socio Legal Information Centre.

[97] National Legislative Bodies / National Authorities, *India: S.R.O. 1108 of 1950 Regulating Entry of Tibetan national into India, 1950*, 26 December 1950, available at: https://www.refworld.org/docid/3ae6b52e24.html [accessed 27 December 2023].

result of these parallel practices, deliberating on matters of uniform legal status, refugee status determination or citizenship for the Tibetan diaspora in India becomes challenging.[98]

In addition to the laws that govern the refugee population, the Indian Government has collaborated closely with the UNHCR located in New Delhi to assess and acknowledge the status of refugees and asylum seekers. Despite the lack of a formal agreement with the Indian Government, UNHCR was initially authorized to operate in India in 1969, primarily to offer vocational training to Tibetans. Subsequently, it was granted a limited role in overseeing the repatriation of Tamils to Sri Lanka. The UNHCR on the approval of the Indian Government, has assisted and recognized the refugee status of groups coming to India from – Afghanistan, Burma, Palestine, Sudan, Somalia, Myanmar, Democratic Republic of Congo, etc. Moreover, India's membership in the UNHCR EXCOM ("Executive Committee") in 1995 is noteworthy, considering its non-ratification of the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. Following that, it has enhanced the participation of UNHCR in addressing the vital concerns of refugee protection, resettlement, and operations through its partnerships with a variety of civil society actors and implementing partners like Young Men Christian Association (YMCA), Socio-legal Information Centre (SLIC), and Bosco Organization for Social Concern and Operation (BOSCO).[99]

In the lack of a national legal framework pertaining to refugees, the Indian government, through the Ministry of Home Affairs, has issued a SOP ("Standard Operating Procedure") that outlines the protocols to be observed by all relevant agencies when dealing with foreign nationals who declare themselves as refugees, as specified in a letter dated 29.12.2011. According to the SOP, if it is determined that the initial claims of the foreign national for leaving their country of origin are depend on a well-founded fear of persecution due to factors like membership of a specific social group, ethnic identity, nationality, sex, religion, race, or political opinion. Then a grant

[98] Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

[99] Sen, S. (2003) Paradoxes of the International Regime of care: The Role of UNHCR in India, in Refugees and the State: Practices of Asylum and Care in India 1947-2000, Ed by Ranbir Samaddar pp. 396-442 New Delhi: Sage Publication.

of LTV (Long-Term Visa) to the foreign national will be considered.[100] The SOP is evidently insufficient and ambiguous, neglecting the identification of the right to seek refuge. The SOP does not address naturalization or provide opportunities for it within the country, and it assumes that repatriation can be completed within a five-year timeframe. Furthermore, it is important to observe that the acquisition of the LTV does not encompass all refugee groups and asylum seekers. For instance, the Tibetan exile population is entirely omitted from this executive decision, resulting in arbitrary and preferential treatment in the governance and protection of refugees within the territory. Consequently, this serves as a valid explanation for dissatisfaction, as it contributes to socio-economic instability and horizontal inequalities [101] among the marginalized[102] refugee groups.

As a result, the Indian government is commonly known for adopting a policy of bilateralism when it comes to handling displaced persons, refugees, or migrants. The Indian government

[100] LONG TERM VISAS. (n.d.). Available at: https://www.mha.gov.in/PDF_Other/AnnexVI_01022018.pdf. Long Term Visa (LTV)- Long term visa is given to Pakistan, Bangladesh and Afghanistan nationals coming to India on valid travel documents i.e. valid passport and valid and seeking permanent settlements in India on renewal basis, every 5 years. The LTV is issued to members of the minority communities in all the above countries namely, Hindus, Sikhs, Buddhists, Jain, Parsi and Christians. Etc. which gives the recipients the additional benefits to take up self-employment or business, allowing free movement within the State / UT, transfer LTV papers from one State to another, permission to apply and purchase residence and small dwelling for self-occupation, opening bank accounts , issuance of driving license, PAN card and Aadhaar Card. See, Zutshi, Satpute & Tahir. (2007*) Refugee and the Law: Refugee Population in India* Human Rights Law Network (HRLN), New Delhi. See, India: The Status of Refugees 2021. Risk and Analysis Group. Available at: https://www.indiaspend.com/h-library/2022/03/11/India_The_Status_of_Refugees_2021.pdf.

[101]Stewart, F. (2014). Why Horizontal Inequalities are Important for a Shared Society. *Development*, 57(1), pp.46–54. doi: https://doi.org/10.1057/dev.2014.30. Stewart, F. & Brown, G. (2005) *Why Horizontal Inequalities Matter: Some Implications for Measurement*, CRISE Working Paper 19 pp. 1-30. Inequalities among groups are known as horizontal inequalities. Individuals can be categorized in various manners, including but not limited to nationality, race, ethnicity, religion, gender, and age. These classifications play a significant role in how people are grouped, with additional categorizations arising from self-identification or legal considerations such as citizenship or membership rights. Knox, J.H. (2008) Horizontal Human Rights Law, American Journal of International Law 102 pp. 47.

[102] Marginality, in its essence, signifies the profound degradation of one's economic welfare, human dignity, and physical security. The identification of marginal groups is within the purview of the dominant society, resulting in enduring discrimination. This concept is multifaceted and encompasses sociological, economic, and political aspects. Marginalized groups refer to individuals who have been excluded from participating in significant social activities due to discrimination based on their social status. Certain attributes of a marginalized group include experiencing discrimination and subjugation. They exhibit distinctive physical and cultural attributes that differentiate them, thereby drawing disapproval from the dominant group. Additionally, they foster a collective identity and mutually bear societal burdens, while adhering to common social norms of inclusion. See, “Young, I.M. (1989). Polity and Group Difference: A Critique of the Ideal of Universal Citizenship. *Ethics*, [online] 99(2), pp.250–274. doi: https://doi.org/10.1086/293065.

possesses exclusive authority and a diverse array of administrative ad-hocism to determine matters concerning the entry, status, citizenship, naturalization, socio-economic rights, and duties of individuals denoted to as 'displaced persons', 'refugees', 'migrants', or 'aliens'. This is primarily due to the lack of a legal statutory framework that governs refugees and migrants within the Indian territory.[103] What seems to be the present-day day concern for the Indian Government is the existing socio-political milieu of separatism and growing hostility towards migrants and refugees in the country.[104] The most recent expansion in this regard happened when The Citizenship (Amendment) Act, 2019 (hereinafter CAA, 2019) was passed on December 9th 2019 along with the National Register of Citizens (NCR)[105] that had created political and social turbulence in abroad and India.[106] In accordance with the amendment, citizenship will be conferred upon non-Muslim communities from

Pakistan, Bangladesh, and Afghanistan who entered India on or before December 31st, 2014, based on their religion. The CAA, 2019 (Act no. 47, 2019) provides an exemption for the tribal regions of Tripura, Mizoram, Meghalaya, and Assam that fall under the 6th Schedule of the

[103]Madhavan G. (2018) *Migration and Refugees in South Asia- Quest for a New Legal Regime The Indian Perspective*. Migration and Refugees in South Asia: Quest for a New Legal Regime Quest for a New Legal Regime Migration and Refugees in South Asia. (n.d.). Available at: https://www.kas.de/documents/278334/4713770/Publication+Migration+and+Refugees+in+South+Asia.pdf/409db523-3ab2-2a96-9ec5-82adea6a053c"?version=1.1&t=1549510900215.

[104] Human Rights Watch. (2022). *India: Rohingya Deported to Myanmar Face Danger*. [online] Available at: https://www.hrw.org/news/2022/03/31/india-rohingya-deported-myanmar-face-danger#:~:text=%E2%80%9CThe%20government. In recent times, India has received severe criticism in the matter of Rohingyas fleeing from Myanmar, when the decision was made to deport 40,000 Rohingya Muslims. It raised questions on the intention of the government which seemed to be tainted by communal hue.

[105] The implementation of Section 14A (Amendment of 2004) of the Citizenship Act, 1955, known as the National Register of Citizens, has caused a significant domestic crisis, particularly in the State of Assam. Residents in this state are required to provide the government with a list of personal and/or family legacy documents, dating back to before 1971, in order to prove their Indian citizenship. The need for an update in this registry since 1951 has arisen as a result of historical instances of both violent and non-violent protests, as well as political movements, which have demanded solutions to the issue of mass migration from Bangladesh to Assam since 1971. The marginalized residents of Assam, who are already vulnerable, express their fear of the increasing anti-immigrant and anti-Muslim sentiment prevailing across India since the enactment of The Citizenship (Amendment) Act 2019. See, J. Field, A.D. Tiwari, R. Hemadri, P. Singh and T. Rastogi. (2019) Bureaucratic Failings in the National Register of Citizens process have worsened life of the vulnerable in Assam. O.P. Jindal Global University and the Development and Justice initiative.

[106] Waghmore, S. (2021). Humanizing Citizenship: Constitutional Principles and the Protests Against the CAA. *PS: Political Science & Politics*, 54(4), pp.640–642. doi: https://doi.org/10.1017/s1049096521000706. Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

Constitution. The Act further exempts Nagaland, Mizoram, Arunachal Pradesh, and as well as regions covered by the Inner Line Permit.[107] Furthermore, refugee groups such as Tibetans and Sri Lankan have been completely overlooked within the context of the CAA, 2019. The Citizenship (Amendment) Act 2019 represents a clear legislative act of exclusion concerning the Tibetan exile community. The Tibetan exile community in India has expressed their discontent with this amendment, given their status as one of the longest-standing religiously persecuted communities living in exile in India for over six decades, and fulfilling the specified requirements for citizenship through naturalization outlined in the act. GoI's selective inclusion has created doubt among the Tibetan exile community regarding their membership rights.[108]

The manner in which the Indian government handles refugees, asylum seekers, and economic migrants has been lacking a systematic approach, leading to the exposure of numerous individuals to poverty and neglect. The denial of access to government-issued documentation severely hampers the inclusion of these humanitarian migrants into formal socio-economic systems, leading to their potential marginalization and the consequential impact on both their own lives and the lives of future generations.[109] As a destination to millions of economic migrants with irregular status, mostly from Bangladesh,[110] The Indian government has made minimal efforts to differentiate between humanitarian migrants in requirement of economic migrants and international protection who enter illegally in search of better economic opportunities. As a result of the lack of a comprehensive legal framework for asylum seekers

[107] The Citizenship (Amendment) Act, 2019 which gives eligibility to religious minority illegal migrants (undocumented migrants) who have entered India before Dec 31 2014 from Muslim majority neighboring countries of Pakistan, Afghanistan and Bangladesh to apply for Indian Citizenship. Raising concerns for illegal/ undocumented Muslim immigrants and migrants from other neighboring countries like Sri Lanka, Myanmar, which have been excluded, thereby tainting the 2019 Citizenship Amendment Act as non-secular and discriminatory in spirit.

[108] Correspondent, S. (2020). CAA has made 6 lakh refugees forever stateless, says rights group. *The Hindu*. [online] 18 Mar. Available at: https://www.thehindu.com/news/national/other-states/caa-has-made-6-lakh-refugees-forever-stateless-says-rights-group/article31103492.ece [Accessed 31 Dec. 2023].

[109] Vijayaraghavan, H. (2020). *Gaps in India's Treatment of Refugees and Vulnerable Internal Migrants Are Exposed by the Pandemic*. [online] migrationpolicy.org. Available at: https://www.migrationpolicy.org/article/gaps-india-refugees-vulnerable-internal-migrants-pandemic.

[110] India and Bangladesh: Migration claims fact checked. (2020). *BBC News*. [online] 21 Feb. Available at: https://www.bbc.com/news/world-asia-india-51575565.

migrants, and refugees, the Indian government has been administering all groups of "foreigners" through overarching laws, such as the Foreigners Act of 1946 and the Passport Act of 1920, as well as the Citizenship (Amendment) Act 2019, etc. Numerous individuals are affected by the consequences of this void in their day-to-day lives, as they remain in a state of limbo. Although the UNHCR has acknowledged the refugee status of certain individuals, it is not consistently recognized by the Indian government, resulting in the discretion of individual states or authorities at various institutions, such as health-care facilities and schools. Refugees find themselves in challenging social circumstances, including civil war, violence, and discrimination, which they have no control over. The significance of a consistent and compassionate policy towards them cannot be emphasized enough. Despite being a signatory to multiple international treaties and conventions on human rights, including those that explicitly support non-refoulement, India does not possess a specific legislation governing refugees. Hence, the well-being of refugees is ensured through case-by-case evaluations in line with the applicable legislation that regulates the presence and departure of non-citizens as a homogeneous group, and with the proactive involvement of the Indian Judiciary.

2.2 THE ROLE OF INDIAN JUDICIARY AND CONSTITUTION IN SAFEGUARDING REFUGEE RIGHTS.

Part III of the Indian Constitution grants people some rights that are referred to as basic rights. The word "basic" implies that these rights are innate to all people and essential to the growth of each person's unique identity and soul. The creators of the Constitution said that these rights would be honoured in the document and therefore raised them to the level of fundamental rights. These rights stand for the essential principles of a civilized society. Consequently, these rights are designed to safeguard the people’s dignity and establish an environment that allows for the complete development of every human being's personality.

Fundamental rights and ordinary rights differ in the aspect that the former are deemed inviolable. No law, usage, custom, ordinance, or administrative order may infringe upon or deprive these

rights. Any law that infringes upon any of the basic rights is void. The legislature and the executive are both obligated to respect these rights. In Jabalpur vs Shukla case, the court made an observation that the purpose behind declaring certain general rights features as fundamental is to safeguard them from unlawful infringement by the executive, legislative, or judicial branches of the State.[111] The framers of the Constitution deemed it imperative to include them for the betterment of the populace. The SC ("Supreme Court") of India has identified such fundamental rights as 'natural rights' or 'human rights'. In the case of L.C. Golakanath vs State of Punjab, the court made a very accurate observation that fundamental rights are the contemporary term for what has traditionally been referred to as natural rights.[112] Hence, the inherent rights that every person possesses are those that are protected by Part III.

Merely providing physical protection to refugees and asylum seekers is inadequate. Rather, ensuring equal access to basic socio-economic rights, security, and subsistence is imperative. The Indian Judiciary, in conjunction with the provisions outlined in the Constitution of India, has assumed the role of a guardian and extended numerous provisions of the Constitution of India. Article 24 relating to prohibition of employment of children in factories, Article 23 relating to traffic prohibition in human beings and forced labour, Article 22 relating to protection against arrest and detention in certain cases, Article 21A relating to the right to education, Article 21 relating to protection of life and personal liberty, Article 20 relating to protection in respect of conviction for offences, Article 14 relating to equality before law, and Article 25 relating to Freedom of conscience and free profession, practice and propagation of religion are available to every individuals such as refugees/foreigners. [113] A liberal interpretation has authorized the inclusion of rights that encompass living with human dignity and all aspects that give meaning to life, including the right to earn a livelihood, access to healthcare, and education.

[111] 1976 AIR 1207
[112] 1967 AIR 1643
[113] The Constitution of India can be accessed at https://lddashboard.legislative.gov.in/sites/default/files/COI...pdf.

It is commonly misunderstood that ratified international conventions lack enforceability in Indian courts without the establishment of a statute. The clearest discussion on the issue is found in Maganbhai Ishwalal Patel vs Union of India, where in it was stated that making of law is vital when an arrangement or understanding works to limit the privileges of the nationals or others or alters the law of the state. In the event that the rights of the citizens or any other fair parties remain unaffected, there is no requirement for any legislative measure to implement the agreement or treaty.[114] It is evident that India lacks particular legislation to protect the rights of refugees, whether civil-political or socio-legal. The Indian Constitution acknowledges a multitude of rights, which are specifically recognized as Fundamental Rights and Directive Principles of State Policy, in line with the International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights, Universal Declaration of Human Rights, and various other international instruments. Both citizens and non-citizens are covered under Article 14, which guarantees equality before the law and equal protection under the law across India's territory. The rights granted under Article 20 (protection in relation to criminal convictions), Article 22 (protection against arbitrary arrest and detention) and Article 21 (right to life and personal liberty), are applicable to individuals who are not only citizens but also non-citizens.[115] The court ruled in the matter of Chairman, Railway Board vs Chandrima Das[116] that even non-citizens visiting this country as tourists or in any capacity have the right to life protection under the Constitution.

The provisions mentioned in the Indian constitution for citizens & non-citizens are in alignment with the provisions stated in the UDHR and ICCPR. The rights enshrined in the “International Covenant on Economic, Social and Cultural Rights” are not included in Part III of the

[114] AIR 1969 SC 789. Also See, Gramophone Co. of India Ltd. Vs. Birendra Pandey AIR 1984 SC 667 briefly stated that The international community necessitates the incorporation of rules of international law into domestic law, even in the absence of explicit legislative approval, as long as they do not contradict Acts of Parliament. The position is, therefore, quite evident. In the event that an international convention contradicts an Indian statute, reliance on the convention is not permissible. If, however, the convention does not contradict any Indian law, then the international convention must be integrated and incorporated into Indian law.

[115] The Constitution of India can be accessed at https://lddashboard.legislative.gov.in/sites/default/files/COI...pdf.

[116] (2000) 2 SCC 465

Constitution. However, these rights are firmly established in Part IV of the Constitution, which outlines the "Directive Principles of State Policy". The aforementioned section includes a series of directives and instructions that must be adhered to by both current and future govts of the nation, regardless of their political affiliations. The depictions reflect the aspirations and ambitions of the framers of Constitution regarding the establishment of the Welfare State in India, centered around principles of social, political, and economic justice. Implementing these measures falls upon the executives and legislatures of the country, who must pass laws with the aim of attaining social justice and improving the well-being of all individuals, regardless of citizenship.[117]

Therefore, the Indian Constitution and the Covenant recognize the following rights: the right to a decent standard of living, the right to take full advantage of leisure time and social and cultural opportunities, the right to protect children and youth from exploitation, the right to secure just and human conditions of work and for maternity relief, the right to work, the right to raise the standard of living, and the right to free and compulsory education. To provide an instance, the Covenant on Economic, Social and Cultural Rights guarantees the right to work, as outlined in Article 6, which encompasses the freedom to select or accept employment and the obligation to protect this right. Likewise, the Indian Constitution has integrated the right to livelihood within Article 39(a) and Article 41, constituting essential elements of the Directive Principles of State Policy. In the case of Olga Tellis v. Bombay Municipal Corporation,[118] commonly referred to as the Pavement Dwellers' case, the Supreme Court examined that the right to livelihood is an essential component of the right to life, which is protected as a basic right under the Constitution. With D.K. Yadav v. J.M.A. Industries[119], the Supreme Court reaffirmed that the right to life guaranteed under Article 21 encompasses the right to livelihood.

Moreover, the rights of refugees have been safeguarded by the SC and various high courts in India through timely judicial interventions. Some examples of landmark cases are as stated

[117] www.worldlii.org. (n.d.). *Refugees In India: Legal Framework, Law Enforcement And Security - [2001] ISILYBIHRL 7*. [online] Available at: http://www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html.
[118] 1986 AIR 180
[119] 1993 SCC (3) 259

below. In Louis De Raedt v. Union of India and others [(1991) 3 SCC 554][120] and State of Arunachal Pradesh v. Khudiram Chakma [1994 Supp. (1) SCC 61540],[121] the Supreme Court decided that everyone has the right to life and personal safety protection, including foreigners. In the case of National Human Rights Commission v. State of Arunachal Pradesh & another [(1996) 1 SCC 742], the SC made an observation regarding the rights conferred by the Constitution. The equality principle before the law and equal protection of the laws applies to every individual. In addition, it is impermissible to deprive any person of their life or personal liberty unless it is done as per procedure established by law. Therefore, it is the State duty to safeguard the liberty and life of every individual, regardless of their citizenship status.

The SC and High Courts of India, known as the constitutional courts, have issued multiple judgments to temporarily halt the deportation of refugees. For example, in Maiwand's Trust of Afghan Human Freedom v. State of Punjab[122] and N.D. Pancholi v. State of Punjab & Others[123] the apex court prohibiting the powers from deporting the refugees. In the case of Malavika Karlekar vs Union of India,[124] the Supreme court instructed that the Burmese individuals, who were at risk of being deported, should not be deported until their status was established, as their refugee status applications were still pending and they did not present any risk or threat to our nation's security. In acknowledgement of the universally recognized principles of non-refoulement, which prohibit the return of refugees to their country of origin where they may face persecution, several Indian High Courts have embraced the principles of natural justice in

[120] The judgment is available at https://indiankanoon.org/doc/488726/.

[121] The judgment is available at https://indiankanoon.org/doc/473806/ Khudiram Chakma vs. State of Arunachal Pradesh 1994 (1) SCC 615, the Supreme Court approving referred to the UDHR in the context of a refugee, that the refugee or asylum seeker has the right to seek asylum and not be returned to the country of origin if it is detrimental to his life.

[122]*The Mailwand's Trust of Afghan Human Freedom v. State of Punjab and Others*, Writ Petition (Crl.)No.125 and 126 of 1986, India: Supreme Court, 28 February 1986, available at: https://www.refworld.org/cases,IND_SC,3f4b8cfd4.html [accessed 31 December 2023].

[123] *N.D. Pancholi v. State of Punjab and Others*, -Writ Petition (Crl.) No.243 of 1988 (for Prel. Hearing), India: Supreme Court, 9 June 1988, available at: https://www.refworld.org/cases,IND_SC,3f4b8e224.html [accessed 31 December 2023].

[124] *Malavika Karlekar v. Union of India and Another*, Writ Petition (Criminal No) 583 of 1992, India: Supreme Court, 25 September 1992, available at: https://www.refworld.org/cases,IND_SC,3f4b8d334.html [accessed 31 December 2023].

matters concerning refugees. These courts have also recognized the crucial role played by the UNHCR in safeguarding the rights of refugees.[125]

Taking into consideration the active judicial intervention aimed at upholding the rights of refugees in India, it is imperative to acknowledge the presence of an ad hoc system that cannot be overlooked. The treatment and protection of refugees in India operate concurrently under political discretion. The legislative bodies have completely ignored the formation of a national legislation that establishes uniform criteria for admission, status determination, and the guarantee of basic socio-economic rights for refugees in the country.

2.3 ARRIVAL AND ORGANIZATION OF TIBETAN EXILE POPULATION IN INDIA

The current predicament faced by refugees must be distinguished from the refugee issue in the past because of its expanded scope, diverse causes, political intricacies, and extensive range of problem-solving endeavours. In recent years, there was a notable rise in both the number and the assumption of religious, racial, and ideological characteristics in refugee and forced movements. The issue of refugees has generated significant human concern and extensive research has been conducted on various refugee phenomena, especially while it remained a relevant subject. These concerns have manifested themselves through three overarching themes: international relations and politics, the humanitarian representation of refugee groups, and academic inquiries into patterns and processes of change in cross-cultural situations and distressing conditions. Nonetheless, the humanistic dimensions have consistently been given priority in all literature pertaining to refugee groups.[126]

In the context of India, the fundamental principle guiding the refugee policy is to approach the issue solely from a bilateral standpoint. Regarding the Tibetan refugees, Jawaharlal Nehru

[125] India : The Status of Refugees – 2021. Rights and Risks Analysis Group (RRAG) 2021. Available at: https://www.indiaspend.com/h-library/2022/03/11/India_The_Status_of_Refugees_2021.pdf.

[126] Saklani, G. (1978). Tibetan Refugees in India : A Sociological Study of an Uprooted Community. *The Tibet Journal*, [online] 3(4), pp.41–46. Available at: https://www.jstor.org/stable/43299920.

proclaimed that India's stance on the matter was influenced by three key factors, 1) India's commitment to fostering a cordial relationship with the People's Republic of China, 2) Safeguarding the security and territorial integrity of India 3) India's sincere sympathy for the people of Tibet.[127] Since 1959, the Dalai Lama, along with a substantial number of Tibetans, established residence in India and various other regions globally. Over 85,000 Tibetans have followed him, escaping from the southern borders of Tibet to seek refuge in India and Nepal. Subsequently, they also migrated to the semi-autonomous regions of Sikkim and Bhutan. The Tibetan refugees continued to stay in the border regions until measures were taken to relocate and integrate them into different regions of the Indian territory. Relief was provided by the GoI to the multitude of Tibetans who entered the country, ensuring their complete requirements, including food, shelter, and medical care. A significant percentage of Tibetan refugees originated from the regions adjacent to India, Nepal, and Bhutan, as well as from the central area of Tibet (U-Tsang, Lhasa). These were the areas where escape was relatively feasible or where disturbances occurred because of Chinese occupation forces. Relatively speaking, the number of individuals who fled from the interior parts of Tibet was quite limited, except for those who happened to be away in the southern villages for business or pilgrimage during critical periods.[128]

The GoI opened several resettlement camps in order to rehabilitate the Tibetans as a consequence of this influx. The sudden transition from one social environment and ecological system to a remarkably distinct one proved to be an immensely challenging ordeal for the Tibetans. Besides drastic climatic change, they also experienced significant shifts in their occupations, food habits, and overall way of life. A multitude of families and individuals arrived in India completely destitute, having lost their loved ones, with no other form of assistance

[127] Suryanarayan, V. www.worldlii.org. (n.d.). *Need For National Refugee Law - [2001] ISILYBIHRL 15*. [online] Available at: http://www.worldlii.org/int/journals/ISILYBIHRL/2001/15.html [Accessed 31 Dec. 2023].

[128] Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf. Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. P 22. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

aside from the aspiration for security and the freedom to practice their religion.[129] India strived to the best of its ability to alleviate the sufferings and hardships of the Tibetan refugees. As a result, shortly following the Dalai Lama's escape to India in 1959, the CTA was founded in 1960 in Dharamshala, with the approval of the GoI. The various departments that make up the CTA are established in accordance with the "Charter of Tibetans in Exile", which serves as a constitution grounded in contemporary democratic ideals and aims to advance the Tibetan people's fight for independence and preservation in exile. India made a commitment to provide all necessary facilities for the Tibetan exile population. Consequently, resettlement camps were established throughout various regions of India, where refugees were offered housing, land, as well as bullocks, agricultural equipment, seeds, and fertilizers for giving them an opportunity to earn a livelihood.[130] Additionally, the Indian government provided them with official documentation for both residency and travel, both within and outside the borders of India. Tibetan exiles residing in India possess a Registration Certificate (RC) that requires regular renewal. This certificate grants them the privilege of domestic travel and serves as a basis for obtaining an IC ("Identity Certificate"), which enables them to travel internationally.[131] The level of commitment demonstrated by the GoI towards the rehabilitation and resettlement of Tibetans within the territory has displayed some inconsistencies. The sections ahead provide detailed discussion on the changes that have occurred over the past six decades in various rules, procedures, policies, and rights pertaining to entry, residence documentation, socio-economic benefits, and citizenship.

[129] 'Tibetans in Exile. 1959-80', Compiled, Edited and Published by The Infom1ation Office of His Holiness The Dalai Lama, Central Tibetan Secretariat, Dharamsala, India. 1981. pp. x, xiii- xv.

[130] Anath Bandhu Mukerji, Grover, N. and Singh, K.N. (2004). *Cultural geography, form and process : essays in honour of Prof. A.B. Mukerji*. New Delhi: Concept Pub. Co.

[131]Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.

2.3.1 INDIA'S POLICY TOWARDS ARRIVAL OF TIBETAN EXILE POPULATION SINCE 1959

India's stance towards Tibetan refugees has undergone modifications over time, influenced by practical and political considerations, as well as in response to the influx of Tibetans into the nation. Generally, it is plausible and analytically advantageous to categorize roughly 5 methods embraced by India in relation to 5 distinct groups of Tibetans who migrated to India during a particular timeframe - (1) 1959 and 1979; (2) 1980 and 1993; (3) 1994 and 1999; (4) 2000 and 2007; and (5) 2008 and the present.[132] A significant number of Tibetans accompanied the Dalai Lama into exile during the period of 1959 – 1979. In order to manage the significant Tibetans influx and mitigate a potential humanitarian crisis, the GoI established transit camps for the incoming population and delivered essential aid, including shelter, medical care, and food supplies. Recognizing that their exile would be of a long-term nature, India took steps to establish programs aimed at offering temporary employment opportunities to certain Tibetans. India has restricted its aid to solely humanitarian assistance. It refrained from openly endorsing the Dalai Lama or the TGIE ("Tibetan Government-in-Exile") that he established in India upon his arrival in 1960. By 1964, approximately 40,000 Tibetans had immigrated to India. In response, the Indian Government established supplementary settlements and sought support from non-governmental organizations (NGOs). The Central Relief Committee (CRC) of the Indian government devised a comprehensive strategy encompassing the creation of additional settlements, vocational training, education, and healthcare.[133] The first wave of Tibetan refugees therefore got assistance from India and multiple NGOs through various aid programs, including logistical and financial support. Nevertheless, although the Tibetans in India, including HH Dalai Lama, were informally recognized as refugees, no formal legal status was granted to them.

[132] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. P 22. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.
[133] Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.

The influx of the second wave of Tibetan refugees occurred from 1980 to 1993, resulting in the arrival of around 25,000 new Tibetans, primarily from Nepal. As a result, India's overall Tibetan population saw an approximate 25% increase. Tibetan refugees were given permission to cross the border by the Tibetan Reception Centre in Kathmandu, provided they paid an entry fee (or bribe) and proceeded to Delhi or Dharamshala.[134] Tibetans who attempted to enter India via the Sino-India border have been repatriated due to the delicate security situation at this contested border. Nevertheless, with the exception of a small number of Tibetan refugees who attempted to enter through the Sino-Indian border, Indian authorities largely ignored Tibetans entering India through Nepal during the 1980s and early 1990s. The GoI did not extend any legal status to them. This practice encouraged the newcomers to fraudulently obtain RCs or other documents, which allowed them to live in or near the pre-established Tibetan settlements, and seamlessly merge with the post-1959 population.[135] However, the implicit assimilation practice came to an end in the early 1990s due to strain it imposed on the GoI resulting from the growth of the Tibetan exile community and occasional conflicts between Tibetan communities and local Indian. Consequently, the GoI and the CTA initiated measures to restrict the illicit, widespread distribution of RCs to newly arrived individuals through informal channels.[136]

The third wave of Tibetan Refugees arrived during the period from 1994 to 1999. In 1994, the GoI and the CTA established an official policy of voluntary repatriation. Limited assistance was provided to the new arrivals by the Tibetan administration, albeit for a temporary period. The CTA ceased providing assistance in job placement or residency acquisition, instead strongly urging them to voluntarily return to Tibet, usually within a three-month period. Notwithstanding implementing relatively more lenient measures, children who arrived in India for Tibetan education, as well as monks and nuns seeking religious training that was constrained

[134]Tibet's Stateless Tibet's Stateless Nationals: Tibetan Refugees in Nepal. (2002). Available at: https://www.tibetjustice.org/reports/nepal.pdf.

[135]Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.

[136] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. P 22. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

or forbidden in Tibet by China, were subject to less restrictions. Due to these policy changes, individuals arriving in India experienced a heightened level of insecurity. As a result of the CTA's withdrawal of support, a significant number of Tibetans who arrived in India during this period encountered difficulties in obtaining RCs or securing adequate work and shelter.[137]

The fourth influx of Tibetans migrated to India during the period from 2000 to 2007. To prevent Tibetan refugees from settling permanently, India had been taking proactive measures. With the gradual improvement in the political relationship between India and China, India took additional measures to restrict the influx of new arrivals into the country. In June 2003, India officially acknowledged Tibet as an integral part of China through a joint declaration and an attached memorandum of understanding and assured to curtail Tibetan freedom movement in exile in India.[138] Due to the combined pressure exerted by the Indian government and external factors from China, the CTA and the GoI reached a mutual agreement aimed at resolving the growing issue of Tibetans residing in India without RCs, resulting in the establishment of the SEP ("Special Entry Permit") program.[139] The policy changes and documents, such as the SEP or the Registration Certificate, did not confer a permanent legal status upon Tibetans, either as refugees or as members of Indian political society.

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[137] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. P 22. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

[138] Declaration on Principles for Relations and Comprehensive Cooperation Between the People's Republic of China and the Republic of India**.** Available at: https://www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/200306/t20030625_679085.html#:~:text=On%20June%2023%2C%202003%2C%20China,People's%20Republic%20of%20China%20H.E.

[139] Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf. Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. P 22. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf. SEPs permit entry into India from Nepal and determine the duration of stay based on the purpose of the visit. Today, SEPs are mainly used for education, allowing enrollment in Tibetan schools or religious education at monasteries. SEPs provide an RC for education, not citizenship or permanent residence in India. The CTA and Indian government agreement in 2003 included an offer of RCs to pre-SEP unregistered Tibetans. Refugees, U.N.H.C. for (n.d.). *Refworld | "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 refoulement*. [online] Refworld. Available at: https://www.refworld.org/docid/556826c64.html".

2.3.2 ORGANIZATION OF TIBETAN SETTLEMENTS IN INDIA

Twelve states in India have official Tibetan settlements or scattered settlements, and there are unofficial Tibetan enclaves in cities all around the country.[140] The majority of Tibetans residing in India are located in 39 designated formal settlements or dispersed settlements, alongside over fifty additional informal Tibetan communities scattered across the nation.[141] Among them is Dharamsala (also known as McLeod Ganj), which serves as the Central Tibetan Administration's headquarters. It is also home to the Dalai Lama's residence and monastery, the Tibetan Refugee Reception Center, and the main offices of numerous Tibetan organisations and institutions, including the Tibetan Institute of Performing Arts and the Gu Chu Sum Association of former political prisoners. It is the capital of the exiled Tibetan government. In India, the settlements are home to over 75% of the Tibetan population. It serves as the Tibetan capital-in-exile. The settlements are home to roughly 75% of the Tibetans in India.[142] The majority of settlements consist mainly of Tibetans who migrated to India during the initial years of exile in the 1960s and 1970s, along with their descendants.

The CTRC ("Central Tibetan Relief Committee"), a subsidiary of the CTA's Home Department, was granted land leases by the Indian government during the 1960s and 1970s, leading to the establishment of most Tibetan settlements. India initially entered into land leasing agreements in the states of Orissa, Maharashtra, West Bengal, South Sikkim, Madhya Pradesh, Uttar Pradesh, Karnataka, Arunachal Pradesh, Ladakh, and Himachal Pradesh. The settlement of the first group of Tibetans was made possible through the efforts of the Indian government, which allocated land and provided help for the establishment of settlements. Subsequent Tibetan immigrants were not provided with land or housing, thus depending on the CTA, NGOs, as well as their own relatives and acquaintances. Today, a considerable number of Tibetans who arrive choose to either live in or near the headquarters of CTA in McLeod Ganj,

[140] Himachal Pradesh, Ladakh, Arunachal Pradesh, Orissa, Meghalaya, Sikkim, West Bengal, Uttaranchal, Karnataka, Maharashtra, Chhattisgarh, and Delhi. For a list of Tibetan Settlements see, Central Tibetan Administration. (n.d.). *Home Department*. [online] Available at: http://tibet.net/home/ [Accessed 1 Jan. 2024].
[141] CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/ [Accessed 1 Jan. 2024].
[142] CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/ [Accessed 1 Jan. 2024].

Dharamsala, or settle in dispersed Tibetan communities during India. Settlements of Informal Tibetan can be found in various locations, such as Kullu and Manali, in northern India, as well as in northeastern regions, including Arunachal Pradesh, Assam, and Meghalaya. These settlements also extend to the outskirts of main cities, such as Delhi.[143]

The two main sources of income in the settlements are agriculture and seasonal sweater sales, with the former being more common in the north and the latter in the south.[144] Seasonal sweater sales and agriculture, [145] which are more common in the north and south respectively, are the two main sources of income in the communities.[146] The remaining settlements consist of scattered dwellings, where individuals engage in a diverse range of small-scale enterprises.[147] Variations in levels of development among settlements are primarily attributed to their geographical location, the associated economies, and the specific policies and laws implemented by their host state in India. Due to the outflow of residents to cities and other settlements, remote settlements often experience underdevelopment and subsequently have smaller populations. Within underdeveloped settlements, such as Sonamling Tibetan Settlement Leh (Ladakh), there is a community of Tibetans who continue to live in original structures of

[143] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf. Information was also collected during field work in Leh, Dharamshala and Darjeeling, thorough informal conversations with the Tibetan residents of the respective settlement and settlement officers.

[144] Information was also collected during field work in Leh, Dharamshala and Darjeeling, thorough informal conversations with the Tibetan residents of the respective settlement and settlement officers.

[145] These include: Choepheling, Miao, A.P.; Dhargayling Tezu, A.P.; Dhondenling, Kollegal, K.S.; Doeguyougayling, Herbertpur; Doeguling, Mundgod, K.S.; Kunphenling, Ravangla, Kikkim; Lugsung Samdupling, B'kuppe, K.S.; Norgayling, Bandara, Maharashtra; Phendeling, Mainpat, Chattisgarh; Phuntsokling, Gajapati, Orissa; Rabgayling, Hunsur, K.S.; Sonamling, Ladakh, J&K; Tenzingang, Bomdila, A.P.; Tuting, A.P. CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/.

[146] Bir Dege, Bir, H.P.; Bir Nangchen Chauntra, Bir, H.P.; Bir Tibetan Society, Bir, H.P.; Dalhousie, Chamba, H.P.; Dekyiling, Dehradun, U.A.; Gapa Tibetan Society, H.P.; Kham Khatok, Sataun, H.P.; Paonta Choelsum, Paonta, H.P.; Sakya Tibetan Society, Puruwala; Tashijong, Bir, H.P.; Sakya Tibetan Society, Purwala; Tashijong, Bir, H.P.; Tashilong, Pandoh, H.P.; Tashiling, Sonda, W.B.; Tibetan Bonpo Foundation, Dolanji; Yangchen Gatseling, Shimla, H.P. CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/.

[147] Bomdila, A.P.; Darjeeling, W.B.; Dharamsala, H.P; Dhondupling, Clementown; Gangtok, Sikkim; Kalimpong, W.B.; Lingtsang, Munduwala; Palrabling, Kullu, H.P.; Samyeling, Delhi, Shillong, Megalaya. CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/.

the 1960s, which were initially built as temporary shelters. Other settlements, like McLeod Ganj in Dharamshala, Himachal Pradesh, enjoy a much higher standard of living. The residential units have permanent structures and well-maintained drainage systems. Moreover, there are several recreational amenities for the youth, including a community center. The settlements exhibit considerable variation in size and population, which is determined by their remoteness and accessibility to resources and amenities.[148]

Regarding governance, the CTA designates a settlement officer for every settlement, while typically the residents themselves elect a "camp leader" to serve as a representative for their respective camps. In practical implementation, Indian authorities have found it convenient to grant the CTA the responsibility of overseeing a majority of their internal matters, with minimal interference from the Indian Government.[149] Each settlement is situated on land that has been leased and designated specifically for housing or agriculture. The lease agreement expressly stipulates the allocation of hectares for agricultural and residential purposes. In practical terms, most officers of Tibetan settlement are without a physical copy of the lease, relying solely on the presumption that one is present. Consequently, a significant number of Tibetans remain unaware of the precise terms & conditions outlined in the lease, such as the restriction on constructing dwellings on agricultural property.[150]

The Indian/State governments, the Tibetan (Dalai Lama's) Administration- Home and Rehabilitation office (later recognized as the CTRC) at the Central Tibetan Administration, assumed the responsibility of planning and implementing various measures for providing relief and rehabilitation to Tibetan refugees. In addition, they have granted authorization for the establishment of a chain to facilitate the distribution of all voluntary and international aid,

[148] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf P, 34. See generally, CTRC. (n.d.). *Tibetan Settlements in India*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/. Information collected during field work interviews, field notes and informal conversations with Tibetan settlers in Leh, Dharamshala and Darjeeling.

[149] McConnell, F. (2016). *Rehearsing the State The Political Practices of the Tibetan Government-in-Exile*. Hoboken, Nj, USA John Wiley & Sons, Inc.

[150] Personal Interview of Settlement officer (CRO), Sonamling Tibetan Refugee Settlement, Leh, Ladakh conducted on 18.5.2018.

including help from foreign governments. Besides implementing its own programs using internal resources, the Tibetan administration has been acknowledged as the advisory entity through which Indian governments and voluntary agencies review and implement their proposals, such as the Tibetan Rehabilitation Policy 2014. India has exhibited remarkable generosity towards the Tibetan population, to enter within its territory, [151] develop settlements,[152] schools,[153] livelihood opportunities and medical facilities.[154]

The Tibetan exile administration was developed by His Holiness the Dalai Lama in the year 1959, in the north Indian hill station of Mussoorie. Later referred to as the CTA of His Holiness the Dalai Lama, this entity represents the continuation of the independent Tibetan govt. The CTA was relocated to Dharamsala in May 1960. From the very beginning, the CTA has

[151]Under Section 3 of Foreigners Act, 1946 (31 of 1946) and Section 3 of Registration of Foreigners Act, 1939 (16 of 1939) the Central Government directs that any foreigner of Tibetan Nationality enter into India with a Special Entry Permit, comply to the instructions mentioned therein and get themselves registered as a foreigner and obtain a registration certificate.

[152]See generally, Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) "https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf. Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf".

[153] The CTA is in charge of all Tibetan schools in India. The CTA operates TCV schools, with branches throughout India, educating 16,000+ Tibetan children. Currently, the Central Tibetan School Administration (CTSA) oversees 6 Senior Secondary Schools in Shimla, Dalhousie, Darjeeling, Kalimpong, Mussoorie, and Herbertpur. Many Tibetans find it difficult to access post-secondary education because of high costs and a few scholarships. Despite this, certain Tibetans in India have earned advanced degrees from universities. Nevertheless, most of the literate population, as per a 2009 demographic survey, lacks a college or university degree. There are two Tibetan universities: the Dalai Lama Institute for Higher Education in Bangalore and "the Centre for Higher Tibetan Studies, Sarah College, Dharamsala. Each" year, around 200 - 300 Tibetans graduate from college with scholarships from the CTA's Department of Education. Children's Villages. (n.d.). *Tibetan Children`s Villages – Working for the care and education of Tibetan refugee children*. [online] Available at: https://tcv.org.in/ [Accessed 2 Jan. 2024].

[154]See, Federation of Tibetan Cooperatives. (2023). *Federation of Tibetan Cooperatives*. [online] Available at: https://www.nyamdel.com/ [Accessed 2 Jan. 2024]. The CTA also administers under the Department of Health, Primary Health Care Units in the settlements which provides basic first aid and precautionary treatment to the settlement residents. Department of Health. The Central Tibetan Administration also "provides The CTA provides health services for Tibetans in India. It also provides training in traditional Tibetan medicine at the Tibetan Medical and Astrological Institutes. Some settlements have their own healthcare clinic although they tend to be very rudimentary. Tibetans may also seek healthcare from Indian hospitals, but Indian healthcare subsidies are not generally available to Tibetans.
(2011). *Department of Health - Central Tibetan Administration*. [online] Central Tibetan Administration. Available at: https://tibet.net/department/health/.

dedicated itself to the dual objectives of rehabilitating Tibetan refugees and reinstating happiness and freedom in Tibet. The rehabilitation agenda encompasses three vital programs: a) the promotion of education among the exile population, b) the establishment of a robust democratic culture, and c) the facilitation of self-reliance to empower the Tibetan people with self-esteem and confidence, eliminating the need for external assistance. The CTA's endeavor to explore modern democracy is a deliberate effort to lay the groundwork for the future reconstruction of Tibet, once freedom is regained in the area. As a component of this exercise, a parliamentary body, then referred to as the TPD ("Tibetan People's Deputies") Commission was established in 1960. The parliament gradually matured into a full-fledged legislative body, thus coming to be recognized as the Assembly of TPD (ATPD). Subsequently, in 2006, its name underwent a change to the TPiE ("Tibetan Parliament-in-Exile").[155]

In the year 1990, His Holiness the Dalai Lama made an announcement regarding the expansion of the TPiE, resulting in an increased composition of 46 members. The parliament was granted the authority to appoint the members of the Kashag or the Council of Ministers, who were held accountable to the elected representatives of the people. Likewise, the Tibetan Supreme Justice Commission, officially developed in 1992, operates under the legal framework of the Arbitration Act of the Indian government.[156] The recently endowed Tibetan parliament proclaimed the exile Tibetan constitution, formally known as The Charter of the Tibetans in Exile.[157] In the year 2001, the Tibetan parliament, under the leadership of His Holiness the Dalai Lama, made amendments to the Charter to facilitate the direct election of the Kalon Tripa, who serves as the highest executive authority, by the exile population. The Kalon Tripa, subsequently, puts forth the nominations for the other Kalons (cabinet members), and seeks the

[155] Central" Tibetan Administration. (n.d.). *About CTA*. [online] Available at: https://tibet.net/about-cta/#:~:text=On%2029%20April%201959%2C%20His [Accessed 2 Jan. 2024].
[156] Central Tibetan Administration. (n.d.). *Judiciary*. [online] Available at: https://tibet.net/about-cta/judiciary/ [Accessed 2 Jan. 2024].
[157] Central Tibetan Administration. (n.d.). *Constitution*. [online] Available at: https://tibet.net/about-cta/constitution/.

parliament's endorsement for their appointment.[158] Presently, the CTA exhibits characteristics resembling those of a democratic administration (Judiciary, Executive, Legislature), encompassing various departments including education, home affairs, finance, international relations, and information, all responsible for the governance and well-being of the Tibetan people. The Tibetan people, both within and beyond the borders of Tibet, consider the CTA as their exclusive and lawful representative and in turn the CTA issues a Green Book where in the Tibetan exile population contribute *Chatrel* or tax to the CTA as a voluntary contribution towards their sustenance in exile in India as well as towards the Tibetan freedom movement. Possessing a Green Book is equivalent to being recognized as a Tibetan National in exile or obtaining Tibetan citiznehsip under the aegis of the CTA. It also helps the Tibetan exile community to claim their rights from the CTA for employment, university or school scholarship, and school admission, within the exiled community and most importantly gain voting rights in Tibetan parliamentary elections.[159]

2.3.3 STATUS OF TIBETAN EXILE POPULATION IN INDIA

India has displayed remarkable generosity towards the Tibetan people. Therefore, Tibetans have been able to enter India and develop settlements, schools, and medical facilities. However, most Tibetans living in India do not possess a clearly defined legal status. In the legal context, they do not satisfy the requirements to be classified as refugees, as India is not a party to either the 1967 Protocol or the 1951 Convention Relating to the Status of Refugees. Furthermore, it has not implemented any national laws regarding the safeguarding of rights refugees. In the absence of a "refugee" designation, Tibetans in India are classified as foreigners according to domestic law, irrespective of their length of stay in the country. Simultaneously, there has been limited success among Tibetans in obtaining Indian citizenship, leaving the majority unable to be naturalized. Due to their foreign status, Tibetans face numerous restrictions that hinder their

[158] Tibetan Parliament-in-Exile. (n.d.). *Evolution*. [online] Available at: https://tibetanparliament.org/about-tpie/evolution-of-tpie/.

[159] Central Tibetan Administration. (n.d.). *Green Book (Chatrel)*. [online] Available at: https://tibet.net/support-tibet/pay-green-book/. Information collected during field work conducted in Leh, Dharamshala and Darjeeling, through informal conversations, interviews and field notes with Tibetans.

freedom of travel, both domestically and internationally, as well as their ability to own property, qualify for govt positions, or secure seats in educational organizations.[160] In breach of its international legal duty of non-refoulement, India has occasionally also driven Tibetans without registration certificates or Special Entry Permits off its territory.[161] Over the course of time, the forms of documents granted to Tibetans living in India and the privileges associated with them have undergone evolution. Following the initial influx of Tibetans in 1959, India has issued 3 varieties of documents: Special Entry Permits, Identity Certificates (ICs), and Registration Certificates (RCs). Each serves a distinct purpose. The documents do not grant any citizenship rights, and they all require periodic renewal.[162]

(i) Registration Certificate (RC)

Tibetan individuals residing in India are classified as foreigners and are mandated to possess a valid RC as proof of their foreigner status in India. "RC" is commonly used as an abbreviation for registration certificate, not refugee certificate. Individuals entering India are issued a RC by the FRRO ("Foreigners Regional Registration Office"). The renewal of the RC is required every 6 months to 5 years. Individuals of Tibetan heritage who were born in India or who have been there for more than twenty years are only have to renew their RC every five years as of April 2012. Although an RC does not grant its holder a legal right to live in India, possessing a valid RC gives the individual an informal residency status. In practical terms, this informal status entails the privilege of living in a specific region of India, usually associated with a Tibetan settlement camp or area, and being able to travel within the country, albeit with the condition

[160] Tibetan refugees are governed by a set of legislations: The Foreigners Act, No. 31 of 1946; The Registration of Foreigners Act, No. 16 of 1939, codified in India Code (1993), The Foreigners Act, No. 31 of 1946 § 3(1); India Code (1993), v. 1.The Foreigners Act, No. 31 of 1946 § 3(1); India Code (1993), v. 1., § 3(2)(a)-(b), (d), (e)(ii), 3(e)(i), 3(e)(iii), 3(e)(iv), 3(e)(v), 3(e)(vi), 3(e)(vii), 3(e)(viii). Foreigners (Amendment) Act, 2003. 14A(b). The Registration of Foreigners Act, No. 16 of 1939; India Code (1993) 3(1)(a), 3(1)(b)-(d), 3(1)(e).

[161] Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.

[162] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre "with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

of obtaining prior approval and registering with local authorities. Issuing initial RCs to Tibetans born in India occurs when they turn sixteen years old upon furnishing a birth certificate. In order to travel internationally, Tibetans also require RCs. With the approval of Indian authorities, Tibetans have the possibility of obtaining a document called an IC, allowing them to travel internationally to a limited number of countries that recognize these documents instead of a passport.[163]

(ii) Special Entry Permit (SEP)

The SEPs were established in 2003 as a collaborative effort between the GoI and the CTA. They regulate the entry of Tibetans into India from Nepal. Tibetans obtain SEPs in Nepal from the Tibetan Reception Center in Kathmandu before they go to India. The Tibetan government formally seeks the SEP on behalf of the refugee from the Indian Embassy in Nepal upon the refugee's arrival at the Nepal Refugee Reception Center. The Nepal Immigration Department grants an exit permit to the Tibetan after obtaining an SEP. They are then accompanied by Refugee Reception Center staff to ensure their safe arrival in Dharamsala, the "Tibetan capital in exile", in Himachal Pradesh, India. India established four SEP designations in 2003: Pilgrimage, Refugee, Education, and Other. Each had varying implications for the duration of the bearer's stay in India. As of 2016, only the designations of Education and Other were in active usage, with Education being the prevailing designation.[164]

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[163] Legal" serviceindia.com. (n.d.). *Legal Overview of the Status of Tibetans in India*. [online] Available at: https://www.legalserviceindia.com/legal/article-4571-legal-overview-of-the-status-of-tibetans-in-india.html#:~:text=Because%20Tibetans%20in%20India%20are [Accessed 2 Jan. 2024]. Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011) https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf. First-hand information was also collected during field work conducted at Leh, Dharamshala and Darjeeling settlements through informal conversation and interviews from Tibetans.

[164] legalserviceindia.com. (n.d.). *Legal Overview of the Status of Tibetans in India*. [online] Available at: https://www.legalserviceindia.com/legal/article-4571-legal-overview-of-the-status-of-tibetans-in-india.html#:~:text=Because%20Tibetans%20in%20India%20are [Accessed 2 Jan. 2024]. Tibetan Justice Centre, Report: Tibet's Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011)

(iii) Identity Certificate (IC)

Tibetans possessing RCs are eligible to obtain travel documents referred to as ICs, which are valid for 10 years and can be renewed. These ICs enable them to engage in international travel. Some countries do not recognize the IC as a valid form of travel documentation. Tibetans have the option to submit an application for an IC through an online platform. To apply for an IC, it is required to submit supporting documents such as a suggestion letter from the Bureau of His Holiness the Dalai Lama, proof of address, birth date proof, and a valid RC in India. After completing, the IC application is forwarded to the MEA ("Ministry of External Affairs") Passport Office in Delhi, followed by the authorities of the applicant's home state. State representatives confirm the applicant's residency and identification. The Passport Office, operating under the MEA, is the official government entity responsible for issuing the IC.[165]

(iv) Tibetan Rehabilitation Policy, 2014

On 20October, 2014, the Ministry of Home Affairs (MHA) of the GoI issued the Tibetan Rehabilitation Policy (TRP), 2014,[166] after joint negotiations with the CTA. The policy aims to

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https://www.tibetjustice.org/wp-content/uploads/2013/11/TJC-2014-Update-on-Tibets-Stateless-Nationals-II.pdf.Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice "Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf. First-hand information was also collected during field work conducted at Leh, Dharamshala and Darjeeling settlements through informal conversation and interviews from Tibetans.

[165]Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf. First-hand" information was also collected during field work conducted at Leh, Dharamshala and Darjeeling settlements through informal conversation and interviews from Tibetans.

[166] A copy of the policy is available at https://www.mha.gov.in/sites/default/files/2022-08/FFR_ANNEXURE_A_17092019%5B1%5D.pdf The Tibetan Rehabilitation Policy, 2014 No.11/2/2014-RHS/MD Government of India Ministry of Home Affairs, FFR Division directed the State governments where the Tibetan population is residing, to extend Central Government Schemes like MGNREGA, Indira Awas Yojana, Rajiv Awas Yojana, PDS ration facilities, any handloom sector schemes, skill development schemes etc. for their rehabilitation and livelihood, also clarifying matters relating to land lease of the settlements, relevant trade license/permit require to undertake any economic activity and also permit to take jobs in any field for which they are professionally qualified on the basis the Registration Certificates (RC) held by them, obtaining which is also the contingent on state policies.. Only Himachal Pradesh, Karnataka, Uttarakhand have implemented the policy.

tackle the inconsistency in the provision of assistance along with facilities to the Tibetan community across different states, with the objective of enhancing the overall satisfaction of Tibetan refugees.[167] With the expansion of the Tibetan exile community in India, the GoI and the CTA perceived the requirement for a systematized plan for the settlements to uphold and preserve the Tibetan population, their culture and identity.[168] The TRP, 2014 was designed to produce uniformity throughout Tibetan settlements to provide numerous welfare benefits as well as to organize the Tibetan population in India. This policy aimed to supplant the current local-level bureaucratic systems that answered to Tibetan worries about land possession, socio-economic welfare schemes, employment chances, documentation procedures and to close the opportunity gap for most second and 3rd -generation Tibetans living in exile.[169] Although there have been successful re-settlements of Tibetans in India, there have been several issues concerning the ownership of the land that was leased to Tibetan settlers. Allegations from the local population, district, and state administration of illegal land appropriation by Tibetans and the delivery of eviction notices to Tibetan inhabitants in and around certain settlements were reported.[170]

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[167] Tibetan Rehabilitation Policy 2014, available at: https://www.mha.gov.in/sites/default/files/2022-08/FFR_ANNEXURE_A_17092019%5B1%5D.pdf.

[168] Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030. Tibetan review (2022). *India extends a five-year grant for running of Tibetan refugee settlements*. [online] Tibetan Review. Available at: https://www.tibetanreview.net/india-extends-a-five-year-grant-for-running-of-tibetan-refugee-settlements/ [Accessed 2 Jan. 2024]. Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

[169]Tibetan Rehabilitation Policy, 2014. Available at: https://www.mha.gov.in/sites/default/files/2022-08/FFR_ANNEXURE_A_17092019%5B1%5D.pdf. Reporter, S. (2014). *Government of India formalises Tibetan Rehabilitation Policy 2014*. [online] Central Tibetan Administration. Available at: https://tibet.net/government-of-india-formalises-tibetan-rehabiliation-policy-2014/ [Accessed 25 Apr. 2023]. Choedon, Y. (2017). Challenges to Tibetan Diasporic Institutions in India. *International Studies*, 54(1-4), pp.196–217. doi: https://doi.org/10.1177/0020881718778438. Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf

[170] Reporter, S. (2013). *Statement on Land Case in Phuntsokling Settlement*. [online] Central Tibetan Administration. Available at: https://tibet.net/statement-on-land-case-in-phuntsokling-settlement/ [Accessed 25 Apr. 2023]. The "forest land case" involved 218 Tibetan families who lived on the road leading to Bhagsu village in Dharamsala. The Tibetan community began in the 1960s, when a large number of Tibetans followed the Dalai Lama to Dharamsala. They began by erecting tin and wood shacks, but these improvised structures

The Tibetan Rehabilitation policy follows a standardized norm that involves issuing leases with predetermined time frames for all Tibetan settlements. Although the land will not be owned by Tibetan families in the settlement, it would be leased in the name of the CRTC and the leaser, the GoI , for a period of twenty years. The strategy asks state governments to think about providing the Tibetan population living in exile with the advantages of these and other social programmes. The policy further grants state govts the authority to authorize Tibetans to engage in economic activities and to issue necessary documents and trade licenses, provided they can demonstrate proof of loans and driving licenses.[171] To access these or other advantages provided by the TRP, Tibetans should possess a valid RC. The TRP lacks clarity regarding the renewal process for RCs, thereby allowing local authorities significant discretion. The TRP does not adhere to mandatory language and, to a large extent, necessitates voluntary action from state govts. Implementing the TRP is contingent upon the willingness of state govts, meaning that states with weak or distant relations with the Tibetans may opt out of implementing it. Himachal Pradesh was the 1st state to develop a policy in line with the TRP. Additional states that have done so include Uttarakhand and Karnataka. [172] The response to the TRP among the Tibetan settlement officers as well as Tibetan community is varied. While certain individuals believe the TRP has negligible impact on the existing state of affairs, others perceive it as a chance for Tibetans to seek the entitlements that were previously withheld from them. Although the state

were gradually replaced by concrete and brick structures. Despite the fact that many of these people had lived on the farm for over a half-century, they had no documentation proving title. The families were sent with eviction notices in 2012, presumably because the area on which "they were living had been designated as forest land. Himachal Pradesh will not expel genuine Tibetans. (2015). *The Times of India*. [online] 26 Feb". https://timesofindia.indiatimes.com/city/chandigarh/himachal-pradesh-not-to-evict-bonafide-tibetans/articleshow/46376405.cms [Accessed 25 Apr. 2023].

[171] Tibetans in some areas are not permitted to obtain driver's licenses with just their RCs. Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

[172] Presently, some state governments, such as those encompassing settlements in Delhi, Dehradun, Bylakuppe, Himachal Pradesh, Meghalaya, Jammu and Kashmir, have not yet implemented TRP. See generally, Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

government is not expected to implement the policy entirely on their own accord, it is believed that certain advantages will arise.

(v) Eligibility for Indian Citizenship

The Indian Constitution empowers Parliament to regulate citizenship and naturalization. Parliament approved the Citizenship Act, 1955,[173] which, as revised in 1986 and 2003, governs how citizenship can be obtained after the Constitution's effective date. Section 3 rules citizenship by birth and states, among other things, that anybody born in India "shall be a citizen of India by birth" if they satisfy the qualifications listed below:

born in India—

(a) before the 1st of July, 1987, but on or after the 26th of January, 1950.

(b) born on or after July 1, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), and either of his parents is an Indian citizen at the time of his birth;

(c) He will be considered an Indian citizen at birth if, either I both of his parents are Indian citizens, or (ii) one of his parents is an Indian citizen and the other is not an illegal immigrant at the time of his birth. This will apply to births occurring on or after the Citizenship (Amendment) Act, 2003 (6 of 2004).[174]

Section 3 of the Citizenship Act of 1955 seems to provide a certain subset of Tibetans living in India the opportunity to attain citizenship. Nevertheless, Tibetan individuals born between those

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[173]THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019.pdf.

[174] THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019.pdf.

[174] The Citizenship (Amended) Act, No 5 of 1986 , The Citizenship (Amended) Act, 2003. THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019.pdf.

years have had their claims for Indian passports and citizenship regularly denied, and they are seen as foreigners subjected to the Registration of Foreigners Act, 1939 and the Foreigners Act, 1946. The Tibetans incapacity, even those born between 1950 &1987, to receive citizenship has remained unchanged in spite of various High Court decisions granting them entitlement to citizenship. Notable rulings from the High Court of India include Namgyal Dolkar vs. Government of India MEA, Tenzin Choephag Ling Rinpoche v. Union of India, and Lobsang Wangyal v. Union of India.[175]

Namgyal Dolkar, an ethnic Tibetan born in India from a renowned noble Tibetan family, is the first Tibetan to claim Indian Citizenship. She is presently a member of the TPiE and also the President of the Gu Chu Sum (political Prisoners of Tibet Movement). During the interview with Ms. Dolkar, she revealed that she had to struggle to acquire Indian citizenship, as she was denied various employment opportunities, like a role as an English lecturer at a university, due to her foreigner status. She was not eligible to take the recruitment exam for the job without being an Indian citizen. The MEA, GoI declined her application for an Indian passport based on section 3 (1) (a) of the Indian Citizenship Act 1955 as she was classified as a Tibetan National based on the Registration Certificate and Identity Certificate she presented, and the GoI not allowing dual citizenship. Ms. Dolkar took her rejection to the Delhi High Court in an attempt to demonstrate the legality of her Indian citizenship. Ms. Dolkar reported that even with the successful outcome of the case, the process was extremely laborious. The Delhi High Court issued a judgement in her favour and articulated that everyone born in India from the 25 January 1950 to the 1st July 1987 is lawfully a citizen of India as stated in the Citizenship Act 1955 and can obtain an Indian passport as proof of Indian citizenship.

However, ground reality for Tibetans seeking Indian citizenship rights has not changed. Tibetans are subjected to arbitrary procedural rulings, for instance, in June 2017 the Regional

[175] United Nations High Commissioner for Refugees (2010) *Namgyal Dolkar v. Government of India, Ministry of External Affairs, Refworld*. Available at: https://www.refworld.org/cases,IND_HC,52ca85264.html (Accessed: April 26, 2023). United Nations High Commissioner for Refugees (2013) *Tenzin Cheophag Ling Rinpoche v. Union of India, Refworld*. Available at: https://www.refworld.org/cases,IND_HC,52ca86c24.html (Accessed: April 26, 2023). *Lobsang Wangyal vs Union of India & Ors on 22 September, 2016* (2016). Available at: https://indiankanoon.org/doc/90529177/ (Accessed: April 26, 2023).

Passport Office (RPO) in Bangalore released a ruling stating that Tibetans who apply for Indian citizenship must abide by the following four criteria. 1) Tibetans are necessary to give up their IC and RC cards; 2) Tibetans are not permitted to return to their original refugee settlements; 3) Tibetans are required to present a written document renunciating CTA benefits; 4) Tibetans are also required to present a written document renunciating benefits from the RC and IC cards.[176] Owing to the unfair and biased regulations and protocols, numerous eligible Tibetans are deterred from applying for Indian citizenship, in addition to the fear of being ousted from their community with no help from the CTA.

The Citizenship Act 1955 is silent about citizenship rights for those Tibetans who are born in India, after 1 July, 1987. There is in fact a significant number of Tibetans 2nd and 3rd generation who are excluded from claiming citizenship rights by virtue of not falling within the criteria under the provision of the Citizenship Act, even when they are born in India. Additionally, Tibetans were not able to acquire citizenship through naturalization and there has been no record of it ever happening. The recent CAA 2019 grants citizenship through naturalization to certain minority groups of illegal migrants such as Pakistan, Sikh, Hindu, Jain, Buddhist, Parsi, and Christian from Afghanistan, and Bangladesh who had to flee to India due to religious persecution.[177] It is evident that the CAA overlooks multiple groups of illegal migrants and refugees in India, including Tibetans. During my research, many of my sources indicated their dissatisfaction with the CAA 2019, describing it as a discriminatory law against the Tibetan exile group. Even though they are one of the oldest persecuted religious communities, living in exile for over 60 years in India and meeting the specified requirements under the act, aside from

[176]Hindustan Times. (2017). *Govt sets conditions for Tibetans to get passports, says move out of settlements, forgo benefits*. [online] Available at: "https://www.hindustantimes.com/india-news/govt-riders-for-tibetans-to-get-passports-move-out-of-colonies-forgo-benefits/story-jBsKDOitUKmDACZ1DP2jFK.html" [Accessed 26 Apr. 2023]. *Tamding Dorjee vs Govt of India Ministry of External Affairs* (2017). Available at: https://indiankanoon.org/doc/187572530/ (Accessed: April 26, 2023). In the case in question, the RPO (Bangalore) judgement was appealed, and the High Court upheld three of the four sections while declaring the one banning Tibetans from returning to their initial refugee settlements illegal.

[177] Wikipedia. (2020). Citizenship (Amendment) Act, 2019. [online] Available at: https://en.wikipedia.org/wiki/Citizenship_(Amendment)_Act. [Accessed on 26 Apr. 2023].

their place of origin. The Tibetan exile population has been left uncertain about their rights of participation due to the Indian government's discriminatory inclusion.

2.4 FOUNDATIONAL CONCEPTS IN MAKING OF TIBETAN IDENTITY AND POLITICAL DISCOURSE

The Tibetan matter is highly contentious to the point that even a benign attempt to uncover the reasons for the post-1958 displacement encountered difficulties. It is imperative to have a concise comprehension of the diverse factors contributing to the confrontation and the political circumstances in which a significant majority of over 80,000 Tibetans, predominantly commoners, sought refuge in neighboring South Asian nations, typically between 1959 and 1962. Several studies have aimed to document the cases of genocides in Tibet, which subsequently led to the mass exodus in 1959. The two reports by the International Commission of Jurists are widely recognized as notable studies.[178] The reports documented several instances of religious persecution, torture, and the fragmentation of families, among other things. The evidence has revealed several key facts regarding the genocide, namely the Chinese government's prohibition of the practice of Buddhism in Tibet. In a deliberate manner, they have showcased their determination to eradicate this religious belief in Tibet. In their quest, they have resorted to the killing of religious figures who served as sources of encouragement for this belief. There have been reports of the forced transfer of a significant number of Tibetan children to a Chinese materialist environment in order to obstruct their religious upbringing.[179] When analyzing the causes and nature of the 1959 revolt, which led to the subsequent forced migration, it becomes clear that the Chinese policy towards Tibet played a significant role. The annexation of Tibet by China, followed by the swift influx of the aggressive ideology into the

[178]The Question of Tibet and the Rule of Law COMMISSION INTERNATIONALE DE JURISTES INTERNATIONAL COMMISSION OF JURISTS GENEVA 1959. [online] Available at: https://www.icj.org/wp-content/uploads/1959/01/Tibet-rule-of-law-report-1959-eng.pdf.
[179]The Question of Tibet and the Rule of Law COMMISSION INTERNATIONALE DE JURISTES INTERNATIONAL COMMISSION OF JURISTS GENEVA 1959. P. 68 [online] Available at: https://www.icj.org/wp-content/uploads/1959/01/Tibet-rule-of-law-report-1959-eng.pdf.

realm of politics, led to a important number of Tibetans seeking refuge elsewhere. It can be reasonably inferred that the Chinese, in their pursuit of a cautious policy of "reform" among the Tibetans, had underlying intentions of undermining their traditional way of life, economic structure, religious and socio-political institutions.[180]

Scholars like Dawa Norbu[181] The Tibetan Revolt of 1959 has been extensively analyzed by scholars such as Dawa Norbu, who have successfully identified the principal causes and thereby shed light on the political context in which the violence unfolded. China's presence in Tibet is characterized by a noteworthy state violence and oppression. During the 1960s and 1970s, there was a harsh repression of the Tibetan way of life, alongside the Cultural Revolution.[182] More than 6,000 Tibetan Buddhist monasteries were annihilated, resulting in an estimated death toll of 1 million Tibetans who succumbed to brutal treatment, torture, or starvation. The year 2008 saw a significant uprising against Chinese rule, which was met with state violence. In response, various policies were implemented to suppress dissent and strengthen state control, specifically targeting Tibetan cultural identity intending to dismantle Tibetan dissent.[183]

The government’s policies aimed at the welfare of Tibetan exile population had a significant impact on their lives and rehabilitation within India. Factors like climate, higher latitude, and work availability played a role in influencing their organization, assimilation and survival. The Indian government's stance on resettling Tibetans was greatly impacted by its relationship with China. India's policy regarding Tibetans caused a nuanced evaluation of multiple factors. Over the course of numerous years, the GoI exercised caution in managing Tibetan exiles, aiming to

[180] Saklani, G. (1978). Tibetan Refugees in India : A Sociological Study of an Uprooted Community. *The Tibet Journal*, [online] 3(4), pp.41–46. Available at: https://www.jstor.org/stable/43299920.
[181] Norbu, D. (1979). The 1959 Tibetan Rebellion: An Interpretation. *The China Quarterly*, *77*, 74–93. http://www.jstor.org/stable/653090.
[182] 2008 UPRISING IN TIBET CHRONOLOGY AND ANALYSIS. (n.d.). Available at: https://tibet.net/wp-content/uploads/2014/10/tibetprotest2008.pdf.
[183] Barnett, R. (2009). The Tibet Protests of Spring 2008. *China Perspectives*, 2009(3), pp.6–23. doi: https://doi.org/10.4000/chinaperspectives.4836. 2008 UPRISING IN TIBET CHRONOLOGY AND ANALYSIS. (n.d.). Available at: https://tibet.net/wp-content/uploads/2014/10/tibetprotest2008.pdf. Tibet’s Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law’s International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

maintain harmonious foreign relations and ensure seamless internal development. In its efforts to preserve the cultural autonomy of the Tibetan people, it also aimed to prevent the accumulation of a significant number of unsettled refugees, which could potentially attract unwanted attention.[184] Furthermore, it abstained from formally requesting support from the international community and aimed to maintain authority over the utilization of the substantial aid provided by both local and overseas voluntary organizations and their staff. It declined to seek help from UNHCR, and, during the General Assembly, it chose to abstain from voting on resolutions in 1959 and 1961 regarding the treatment of the Tibetan individuals by the People's Republic of China. In this period, policy was grounded on the aspiration that diplomatic arrangements could facilitate the repatriation of Tibetan migrants in India to their homeland.[185]

In the year 1962, a conflict arose between India and China regarding the border issue, resulting in a subsequent alteration of Indian policies concerning Tibet within the UN. India became a member of the forty-three nations that supported the General Assembly resolution concerning Tibetans at the 20th session of the General Assembly in 1965. A permanent solution for the settlement of Tibetan exile community was determined by the GoI. This solution will facilitate their establishment in large, isolated communities, allowing for the preservation of their culture and identity.[186] The continued leadership of HH Dalai Lama over the years has greatly contributed to the consolidation of the Tibetan community in exile. The Dalai Lama does not discourage individuals from emigrating to western countries. Instead, he has followers who choose to stay in India, utilizing opportunities provided by the GoI and voluntary agencies to establish viable communities that are self-sufficient and self-sustaining. This policy possesses

[184] 'Tibetans in Exile'. 1959-1980, Compiled, Edited and Published by: The Information Office of His Holiness The Dalai Lama, Central Tibetan Secretariat, Dharamsala, India, 1981. Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

[185] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

[186] Tibet's Stateless National III, The Status of Tibetan Refugees in India. A report by Tibet Justice Centre with the support of Tibetan Legal Association and Boston University School of Law's International Human Rights Clinic. June 2016. https://www.tibetjustice.org/wp-content/uploads/2016/09/TJCIndiaReport2016.pdf.

two evident benefits. First, it will guarantee the preservation of the Tibetan exile community as a whole, enabling them to stay in sufficiently large congregations that can uphold their language and religion. Additionally, Tibetan schools will educate them on the fundamentals of their cultural heritage. Additionally, the economic support will serve to prevent the Tibetan exile population from sinking into a state of depression and reliance, relying solely on the generosity of the global community.[187]

The proactive participation of the Dalai Lama's administration in the rehabilitation process of the Tibetans played a crucial role in fostering their deep-rooted sense of solidarity. The Dalai Lama's Administration provided a sense of protection to Tibetan, who remained outside the settlements, despite the unfamiliar culture and climate they faced. Living in India has not only bolstered the self-assurance of Tibetan youth, but it has also reshaped the composition of Tibetan identity in contemporary times. The Tibetan identity has evolved into a national identity, surpassing the cultural and religious sentiments prevalent in earlier generations. One could posit that Tibetans who have acquired the ability to navigate different government institutions, agencies, and individuals are inclined to assimilate more effortlessly into an unfamiliar social milieu compared to those who have solely engaged within a restricted social and cultural domain. This is the lesson that can be derived from the experience of the Dalai Lama's Administration in the rehabilitation of Tibetan exiles in India.[188]

The Tibetan exiles are an organized and well-represented group, having received assistance from the GoI and the CTA for their rehabilitation and resettlement. They have successfully obtained crucial identity documents such as registration certificate, Identity Certificate, ration cards, Aadhaar card, etc., which are necessary for them to access welfare schemes, basic amenities, and services like healthcare, education, banking facilities, and rations. However, in reality, they find themselves in a state of uncertainty, grappling with bureaucratic procedures

[187] Palakshappa, T.C. (1978). *Tibetans in India*. New Delhi : Sterling Publishers.
[188] Bentz, A.-S. (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016. Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459.

that leave them in limbo in terms of their legal status as refugees, employment opportunities, identity, citizenship rights, and the protection of their fundamental human rights and dignity. The main hurdle in obtaining access to socio-economic rights for this group is the requirement of acquiring membership rights and clarity on their legal status, specifically whether they should be classified as "Tibetan Refugees or Tibetan Nationals." This challenge arises from India's non-recognition of refugees and Tibet as a sovereign state, as well as the CTA as the official govt of Tibetans in exile.[189]

Tibetans living in India are not considered refugees under international law, as India has not ratified the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol and has not implemented any national laws to safeguard refugees. In the absence of a "refugee" designation, Tibetans are deemed to be foreign nationals according to domestic law, irrespective of their length of stay in India. Tibetan Refugees are subject to numerous restrictions because of their status as foreigners, which significantly affects their freedom of movement both within and between countries. Other limitations include their inability to own property in their own names, apply for government jobs, get admission to universities, and use banking services. Furthermore, the condition of Tibetan Refugees in various settlements varies significantly in terms of developmental levels. This discrepancy is primarily because of their geographical location, access to resources, and, most importantly, the distinct laws and policies that each state has the authority to implement for their rehabilitation.

The status of being a refugee should not be viewed as an inherent or flawed identity; rather, it is recognized and safeguarded as a symbol of the transient nature of displacement and the choice to resist assimilation in a foreign nation where one feels out of place.[190] The Tibetan people constitute a community that is deeply rooted in their cultural heritage and tightly knit. The collective commitment to preserving their nationality, identity, and culture has fostered their

[189]Bentz, A.-S. (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016.

[190]Malkki, L. (1992). National Geographic: The Rooting of Peoples and the Territorialization of National Identity Among Scholars and Refugees. *Cultural Anthropology*, 7(1), pp.24–44. doi: https://doi.org/10.1525/can.1992.7.1.02a00030.

unity. However, they have found themselves in a predicament at the heart of a governmental dilemma, lacking a permanent legal status, deprived of socio-economic welfare benefits, enduring endless bureaucratic inconveniences, and facing a scarcity of career prospects for the younger generation. This situation leaves them and their future descendants in a state of uncertainty. Due to the absence of dedicated domestic legislation, India faces procedural instability in ensuring consistent admission, status determination, and equitable protection of the rights of diverse refugee groups at various levels. The situation of Tibetan refugees in India from 1959 to the present day serves as a prime illustration to examine the inconsistency and arbitrariness in policies and regulations at both the central and state levels.

Indian government recently accepted the claims of some Tibetans[191] who were born and residing in India, to Citizenship by birth,[192] through the landmark case of Namgyal Dolkar, who sought to obtain an Indian Passport by claiming to be an Indian Citizen by birth under the provisions of Citizenship Act, 1955 (Amendment Act, 1986). Also, according to the Charter of Tibetans in Exile,[193] The CTA permits Tibetans in exile to hold "dual citizenship," meaning they can acquire citizenship from another nation while continuing their status as Tibetan Nationals under the CTA, provided they maintain their connection with the CTA by sustaining their support for the Tibetan freedom movement. However, the process of obtaining the same is marred by arbitrary discretion and procedural complexities imposed by the Indian government, as indicated in the aforementioned sections. In addition to the CTA's reluctance, they view dual citizenship as a privilege that should not be hastily or collectively exercised to

[191]Namgyal Dolkar v. Government of India, "Ministry of External Affairs (2010); Phuntsok Wangyal v. Ministry of External Affairs & Ors.; Lobsang Wangyal v. Union of India; Tenzin Dhonden v. Union of India" (2017).
[192] Citizenship by Birth under Section 3 (1)(a) of Citizenship Act, 1955, (Amendment Act, 1986), Indian Citizenship claims by birth – section 3 (1) (a) & 3 (1) (b) Indian Citizen by Birth and grant of passports to Tibetans born in India between 26/1/1950 to 1/7/1987 by virtue of the Citizenship Act 1955, Amendment 1986, 2003.On or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth).
[193]Article 8 (2) mentions that "any Tibetan refugee who has had to adopt citizenship of another country under compelling circumstances may retain Tibetan Citizenship provided he or she fulfills the obligation of a citizen as provided under Article 13, to bear true allegiance to Tibet, comply with the Charter, endeavour to achieve the common goal of Tibet, pay taxes imposed (Green Book), work in the interest of Tibet in case of a threat". See, Charter of the Tibetans in "Exile 1991, THE CHARTER OF TIBETANS-IN-EXILE. (n.d.). Available at: https://tibet.net/wp-content/uploads/2021/04/English-Charter-final.doc.pdf.

preserve their refugee status and safeguard the integrity of their administration, preserve their Tibetan identity, ultimately aiming to regain control of Tibet. Hence, the matter of citizenship presents a multifaceted challenge for Tibetans-in-Exile, as it is inseparably linked to cultural, political, symbolic, legal, patriotic, and practical aspects.[194] The Tibetan exile population faces a significant concern regarding the fear of being expelled from their community or losing the hope of returning to Tibet, leading to a moral dilemma when deciding whether to accept membership rights in India. Therefore, there has been a limited number of Tibetans who have pursued citizenship and have instead chosen to live as refugees, even if it means sacrificing numerous socio-economic advantages for themselves and future generations.[195]

The lack of citizenship restricts their socio-economic opportunities, and despite possessing all the required documents verifying their refugee status, they are refused public employment, access to banking services, admission to educational institutions, medical care, and other essential facilities, ultimately forcing them to yield to the authorities. Therefore, it is imperative to minimize such underlying factors and arbitrary actions in order to strike a harmonious balance between fulfilling global humanitarian responsibilities and ensuring the basic human right to a dignified life for the refugee population. This will contribute towards inclusivity and stability within the nation, while also safeguarding the interests of its citizens.

In the present day, Tibetan who were rehabilitated six decades ago still encounter the issue of restricted mobility due to their resettlement in the most remote regions of the nation or citizenship rights and uncertain legal status. Further significant issues and anxieties arise from the restricted access to higher education and economic prospects, leading Tibetans to migrate out of their exile communities and potentially undergo irreversible assimilation into the dominant surrounding cultures. Overall, they have upheld their cultural and religious customs and identity. Notwithstanding those positive accomplishments, the majority of Tibetans living

[194]Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459.
[195]McGRANAHAN, C. (2018). Refusal as political practice: *American Ethnologist*, 45(3), pp.367–379. doi: https://doi.org/10.1111/amet.12671. McGranahan, C. (2016). Theorizing Refusal: An Introduction. *Cultural Anthropology*, 31(3), pp.319–325. doi: https://doi.org/10.14506/ca31.3.01.

in India express a desire to repatriate to Tibet. Despite the relatively favorable living conditions of many of these refugees, the unresolved refugee problem is exemplified by the continued search for asylum by Tibetans in India and other Western countries. Even after over six decades after the initial flight of Tibetans, permanent solutions for them remain far from attainable.

CHAPTER 3

IMPERATIVES OF THEORETICAL FRAMEWORK AND METHODOLOGY: RATIONALIZING SOCIO-LEGAL, ETHNOGRAPHIC STUDY OF TIBETAN DIASPORA IN INDIA

ABSTRACT

The present chapter centres around the methodological framework and its significance in facilitating my fieldwork study. In this thesis study, a holistic approach has been employed, integrating socio-legal analysis, a bottom-up research study design, and an ethnographic method. This methodology provides new perspectives for conducting comparative research on the Tibetan exile community in India. It effectively fulfils the objective of identifying and characterizing the context and environment of the exile community within their social domain, along with their comprehension and connection with government agencies and institutional legal frameworks. Through the utilization of this methodological approach, the Tibetan exiles are examined through the intricacies of their contingent reality, characterized by the interaction between local and state authorities of the Indian government and the Central Tibetan Administration. This also fosters the recognition of the Tibetan exile community's vulnerabilities and capabilities. The study draws upon Julie Peteet's (2005) multifaceted ethnographic research on Palestinian refugees which examine the complex interplay between structural limitations imposed on displaced individuals, refugee camps, international agencies, host governments, and the agency of refugees in reconstructing their daily lives within these contexts. This study explores the state of limbo experienced by Tibetan refugees through a socio-legal ethnographic analysis. It investigates the intersection between social and legal realms, informal regulations, administrative systems, and procedures that shape the perception of legality within the Tibetan refugee community, as well as among local and state actors. A comparative study on Tibetan refugees in three local contexts (Ladakh, Darjeeling and Dharamshala) though may be contextually (socio-political interactions, socio-economic assistances, institutional engagements, independent activities, lifestyles, geographical access or

restraints etc.) unique and incomparable, yet, uncovers resemblances and thematic similarities among the Tibetan exile communities, in a manner that makes them an ideal case study, individually (within their local context) as well as comparatively (comparing Tibetan refugees living in Ladakh, Darjeeling and Dharamshala), for understanding how the law can shape the lives of refugees and how refugees work the law.

3.1 CONCEPTUAL CONSIDERATIONS: STUDY OF REFUGEES AND REFUGEE STUDIES

The area of refugee studies has witnessed a dramatic growth over the latter part of the twentieth century. Especially within academic investigation, specialist research centres, institutional research, and international research organizations. Significant development in this field is attributed to the existing global refugee crisis- management. The situation of refugees has attracted research efforts, theories, policies, and funding from various institutions and organizations globally. As refugee policies have been studied, lessons have been learned, theoretical reflections have reconfigured to adapt to changing trends to combat the current global refugee situation. research concerning refugees as an agenda based on a 'label' has now been legitimized as an interdisciplinary field of exploration.[196] Various academic disciplines have a multitude of published works available, which may not explicitly be categorized as refugee studies but still contains relevant material on the subject.[197]

To explain refugee studies as a research field would require the term 'refugee' to be defined. The most widely accepted definition of refugee is mentioned in the 1951 "Convention Relating

[196]ZETTER, R. (1988). Refugees and Refugee Studies — A Label and an Agenda. *Journal of Refugee Studies*, 1(1), pp.1–6. doi: https://doi.org/10.1093/jrs/1.1.1. Black, R. (2001). Fifty Years of Refugee Studies: From Theory to Policy. *International Migration Review*, 35(1), pp.57–78. Doi: https://doi.org/10.1111/j.1747-7379.2001.tb00004.x. Cameron, B. (2014). Reflections on Refugee Studies and the Study of Refugees: Implications for Policy Analysts. *Journal of management and public policy*, 6(1)", p.4.

[197] Study on refugee mental health, Socio-legal study on particular refugee groups, study on refugee women and children, anthropological study of refugee migration and demography. See generally, Black, R. (2001). Fifty Years of Refugee Studies: From Theory to Policy. *International Migration Review*, 35(1), pp.57–78. Doi: https://doi.org/10.1111/j.1747-7379.2001.tb00004.x.

to Status of Refugees" and the 1967 Additional Protocol.[198] Generally, the word refugee is utilized to signify to a individual who has been forced to abandon their home for a reason beyond their control, such as persecution, civil unrest, or war. This implies a disruption of their social, economic, and cultural relations. The range of the term refugee is vast and intricate. The term has been broadened to encompass such concepts as 'exile', 'displacement', 'deportation', 'extradition', etc. All these terms demonstrate the intricacy encompassing the refugees, possessing legal, historical, cultural, and psychological features.

More recent literature on refugee studies, has adopted a broader interpretation of the word refugee,[199] than that defined by international organizations, which has caused much debate on who should or should not be included in the scope of refugees and more important in the area of refugee studies.[200] The definition of a refugee within a nation's policy is reliant on the principles established to offer asylum. States reserve the right to determine and adjudicate claims of asylum within the framework of asylum rights prescribed in international law.[201] Consequently, expanding the scope of who is classified as a refugee does not guarantee the corresponding benefits.

[198]Article 1 (2) of The Convention Relating to Status of Refugees defines the term refugee as "any person who as a result of events occurring before January 1951 and owning to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country, or who not having a nationality or being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. United Nations (1951). *Convention relating to the Status of Refugees*. [online] OHCHR. Available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees".

[199]It may or may not include forced migrants, asylum seekers, environmental refugees, economic refugees, humanitarian refugee, internally displaced person (IDP). Davies, W., Norway F., and Global IDP "Survey (1998). *Rights have no borders: internal displacement worldwide*. Oslo, Norway: Norwegian Refugee Council; Geneva, Switzerland. LEE, L.T. (1996). Internally Displaced Persons and Refugees: Toward a Legal Synthesis? *Journal of Refugee Studies*, 9(1), pp.27–42. doi: https://doi.org/10.1093/jrs/9.1.27.

[200]Hein, J. (1993). Refugees, Immigrants, and the State. *Annual Review of Sociology*, 19(1), pp.43–59. doi: https://doi.org/10.1146/annurev".so.19.080193.000355.

[201] United Nations (1948). *OHCHR | Universal Declaration of Human Rights - English*. [online] OHCHR. Available at: https://www.ohchr.org/en/human-rights/universal-declaration/translations/english Article 14 (1) of the Universal Declaration of Human Rights grants everyone the right to seek and enjoy in other countries, asylum from persecution. Individual states have their own asylum enforcement laws and agency to determine legitimate claims.

In a humanitarian regime, refugees themselves are both the means and the end; they self-evidently legitimize their claims to entitlement for their own welfare. The label of 'refugee' is enough to categorize a heterogeneous population or group into a homogenous one, with prescribed needs. Factors like culture, place of origin, social identity dissolve with the process and experience of their flight. The very fact of displacement or movement across borders is considered a priori to a loss of identity and culture.[202] Transformation from their homeland experience to marginalized living in the host nation; adjustment, settlement, resettlement, perception of fear, uncertainty in social and occupational status. All these elements confront the refugees upon reaching the host nation, which may pose a threat to their identity, culture traditions. Despite the varying views, it appears that there is some understanding that the term refugee is used to describe someone who must leave or remain outside of their home country due to legitimate fear of being persecuted for any of the following: nationality, religion, race, or political opinion. There is no universally accepted theory of refugees to steer refugee studies or research, as Malkii[203] claims:

"The term refugee has analytical usefulness not as a label for a special, generalizable kind or type of person or situation, but only as broad legal or descriptive rubric that includes within it a world of socio-economic statuses, personal histories and psychological or spiritual situations."

To get a better grasp on the idea of a refugee and the scope of refugee studies, it is not necessary to compare and contrast refugees and other kinds of migrants who were forced to leave their homes, but it is essential to study and explore the specific refugee groups in order to create case-specific epistemic theories. A comprehensive insight into refugee lives requires that all these aspects be considered, along with spatial and temporal issues that uproot them from their homeland. Even after being deracinated, they strive to live in a community or group with social and cultural affinity in an endeavour to maintain their identity. Refugee lives are molded by their culture, socio-political thought, homeland, identity, personal histories, and community

[202] Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.

[203]Malkki, L.H. (1995). Refugees and Exile: From 'Refugee Studies' to the National Order of Things. *Annual Review of Anthropology*, 24(1), pp.495–523. doi: https://doi.org/10.1146/annurev.an.24.100195.002431.

experience. Crossing the border does not disconnect the refugee population from their roots and existential experiences. In fact, arriving on the other side makes them valued informants for research in diverse disciplines; 'as they represent the embedding of richly described local cultural worlds in larger personal systems of the political economy. What makes their representation challenging and a focus of experimentation is the perception that the "outside forces" in fact are an integral part of the construction and constitution of the "inside".[204]

The refugee population has been under the radar of many national and international organizations, concerning security, asylum rights, international relations, peace studies, etc. When evaluating the social and political place of this population within the nation- state or civil society, it is important to consider its historical context. To truly comprehend the different types of refugee populations and to identify the development of particular diasporas, it is important to research the perspectives of refugees on belongingness, identity, culture, traditions, and socio-political thought.[205] Being a refugee is not necessarily a default or faulty identity; it is valued and protected as a sign of the ultimate temporariness of exile and of the refusal to integrate in the host country where one does not belong.[206] Whether refugees are seen as having the skills and capacity to benefit their host nation or as a burden, a victim and a threat, depends largely on the strategies used to help them assimilate, adjust, settle, resettle and integrate. This has an impact on the transformation of their behavior, while still being connected to their home country.

[204]Marcus, G.E. and Fischer, M.M.J. (2004). *Anthropology as cultural critique: an experimental moment in the human sciences*. Chicago: The University of Chicago Press. Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.

[205]Loescher, G. (1992). Introduction. *The Adelphi Papers*, 32(268), pp.3–8. doi: https://doi.org/10.1080/05679329208449097. Sheffer, G. (2002). A Nation and Its Diaspora: A Re-examination of Israeli—Jewish Diaspora Relations. *Diaspora: A Journal of Transnational Studies*, 11(3), pp.331–358. doi: https://doi.org/10.1353/dsp.2011.0013 Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.

[206] Malkki, L. (1992). National Geographic: The Rooting of Peoples and the Territorialization of National Identity Among Scholars and Refugees. *Cultural Anthropology*, 7(1), pp.24–44. doi: https://doi.org/10.1525/can.1992.7.1.02a00030.

3.2 THEORETICAL FOUNDATIONS OF REFUGEE RESEARCH: SPATIALLY SITUATING THE STUDY

3.2.1 MEMBERSHIP RIGHTS VS SOVEREIGNTY CLAIMS

For the present study, relevant academic literature and research is divided into two sections, for a better understanding of discourse surrounding refugees in general and in the Indian context. This section mentions prominent theoretical paradigms dealing with universal membership rights for refugees; rights-based approach towards inclusion, state's responsibility to refugee's claims for admission and subsistence. With the current climate in mind, extensive prior research has underscored the need to re-examine the laws of international refugee protection to increase effectiveness from both the government and refugees' perspectives.[207] The basic goal of striking a balance between the rights of refugees and the States is no longer accomplished by the processes. Hathaway[208] argues that:

"Globally, the refugee population is growing, making it necessary to take action to reassert the right of refugees to be protected by human rights and to build a shared community with adequate support from the Governments. Urging Government to provide a permanent settlement for all refugees, no matter the circumstances, would be a strenuous job but providing quality protection of rights to all refugees who reach their land is not beyond reach."

Research of the past has investigated and debated the idea of burden sharing, with host countries getting economic and administrative help from the global community to guarantee protection to the refugees that come to their boundaries. Studies have examined if states must accept the claims made by refugees concerning the protection of essential human rights to safety and subsistence and still provide the liberty to maintain its membership rights, resources, migration

[207] Pogge, T.W. (1992). Cosmopolitanism and Sovereignty. *Ethics*, 103(1), pp.48–75. doi: https://doi.org/10.1086/293470. Hathaway, J. and Neve, R. (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1622 [Accessed 15 June. 2019]..

[208] Hathaway, J. and Neve, R. (1997). Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection. *Articles*. [online] Available at: https://repository.law.umich.edu/articles/1622 [Accessed 15 June. 2019].

control policies, while preserving state sovereignty.[209] There is a growing body of literature which argues that sovereignty claims of liberal states should be guided by human rights, where individuals are accepted in a polity by virtue of being human.[210] Benhabib, takes prominence in identifying membership rights for refugees, as an important variable, respecting the basic tenet of human rights as well as right to live with human dignity. She evaluates the claims of both refugees and nation-states, providing a normative basis and constructive theoretical framework to analyze and justify these claims in a national context.[211] Existing body of research on membership rights to refugees has postulated a convergence between refugees seeking to acquire membership rights, and access to socio-economic, welfare rights. A fundamental understanding of citizenship/ membership rights involves an equal standing of an individual among other members of the polity, possessing equal rights and duties; it also interprets citizenship as a key to entitlement rights being offered to members.[212] From the perspective of the excluded, lack of membership rights may deprive them of key social, economic and political

[209] Betts, A. (2003). Public Goods Theory and the Provision of Refugee Protection: The Role of the Joint-Product Model in Burden-Sharing Theory. *Journal of Refugee Studies*, 16(3), pp.274–296. doi: https://doi.org/10.1093/jrs/16.3.274. Thielemann, E.R. and Dewan, T. (2006). The myth of free-riding: Refugee protection and implicit burden-sharing. *West European Politics*, 29(2), pp.351–369. doi: https://doi.org/10.1080/01402380500512742 Bauböck, R. (2017). Refugee Protection and Burden-Sharing in the European Union. *JCMS: Journal of Common Market Studies*, 56(1), pp.141–156. doi: https://doi.org/10.1111/jcms.12638.

[210] Gibney, M.J. (1999). Liberal Democratic States and Responsibilities to Refugees. *American Political Science Review*, 93(1), pp.169–181. doi: https://doi.org/10.2307/2585768. Lamey, A. (2011). A liberal theory of asylum. *Politics, Philosophy & Economics*, 11(3), pp.235–257. doi: https://doi.org/10.1177/1470594x11416775. Benhabib, S. (2017). Citizens, Residents, and Aliens in a Changing World: Political Membership in the Global Era*. *Routledge eBooks*, pp.147–182. doi: https://doi.org/10.4324/9781315260211-6 Joormann, M. (2019). *Legitimized Refugees: A Critical Investigation of Legitimacy Claims within the Precedents of Swedish Asylum Law*. [online] Lund University. Available at: https://portal.research.lu.se/en/publications/legitimized-refugees-a-critical-investigation-of-legitimacy-claim [Accessed 9 Apr. 2019].

[211] Seyla Benhabib (2017). Citizens, Residents, and Aliens in a Changing World: Political Membership in the Global Era*. *Routledge eBooks*, pp.147–182. doi: https://doi.org/10.4324/9781315260211-6.

[212] Bosniak, L.S. (2000). Universal Citizenship and the Problem of Alienage. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn.232049. Gibney, M.J. (2008). Who Should be Included? Noncitizens, Conflict and the Constitution of the Citizenry. doi: https://doi.org/10.1057/9780230582729_2 Lamey, A. (2011). A liberal theory of asylum. *Politics, Philosophy & Economics*, 11(3), pp.235–257. doi: https://doi.org/10.1177/1470594x11416775.

good. It may also strike at the core of human dignity, of not being good enough or non-acceptance as human beings. Carens[213] conclusively asserts:

"Respecting every individual's choice and freedom to make commitments in a state is recognizing the idea of equal moral worth and dignity every human possesses in the state of nature."

Comprehending citizenship/ membership rights through the lens of aliens reveals the inclusionary and exclusionary aspects of citizenship. Bosniak argues that citizenship as a normative concept is open to all members of a community, bearing universal equality and empowerment. But for all those members living beyond the citizenship community as aliens and on the marginalized side, it is considered as an instrument to delineate exclusion and inequality.[214] Issues concerning citizenship stem from its varied and complex meanings in different contexts. Previous studies have classified citizenship into categories according to the purpose it serves.[215] A significant analysis on the concept of citizenship/ membership rights has conceived it as a national project within the domain of a nation-state. Revaluing citizenship by equating it with identity, enjoyment of rights, social and political participation etc. has evidently created a demarcation between citizens & non- citizens or citizens and aliens.[216] Non-citizens, aliens, or in this case refugees, are not given the legal status of citizens, let alone rights and

[213]Carens, J.H. (1987). Aliens and Citizens: The Case for Open Borders. *The Review of Politics*, [online] 49(2), pp.251–273. Available at: http://www.jstor.org/stable/1407506?origin=JSTOR-pdf [Accessed 18 Feb. 2021].
[214] Bosniak, L. (1998). The Citizenship of Aliens. *Social Text*, (56), p.29. doi: https://doi.org/10.2307/466764.
[215] Citizenship as rights includes enjoyment of rights and privileged in civil, political and social spheres. Economic, cultural rights, social and welfare rights are also integral to any conception of citizenship. Citizenship as status is associated with formal legal recognition. Citizenship as identity is equated as form of social membership, an instrument of social participation and inclusion in a polity. The concept of Differentiated citizenship which considers group identities and group concerns in a multicultural polity. Therefore, citizenship as term has a broad range of uses including, recognizing collective identity and sentiment. It remains the center of politics and society. See, "Balibar, E. (1988). Propositions on Citizenship. *Ethics*, 98(4), pp.723–730. doi: https://doi.org/10.1086/293001. Carens, J.H. and Shklar, J.N. (1992). American Citizenship: The Quest for Inclusion. *Political Science Quarterly*, 107(3), p.551. doi: https://doi.org/10.2307/2152455. Kymlicka, W. and Norman, W. (1994). Return of the Citizen: A Survey of Recent Work on Citizenship Theory. *Ethics*, 104(2), pp.352–381. doi: https://doi.org/10.1086/293605. Bosniak, L.S. (2000). Universal Citizenship and the Problem of Alienage. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn.232049. Mitchell Cohen (2010). T.H. Marshall's Citizenship and Social Class. *Dissent*, 57(4), pp.81–85. doi: https://doi.org/10.1353/dss.2010.0008.
[216]Bosniak, L.S. (2000). Citizenship Denationalized. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn".232082.

privileges or access to socio-economic welfare. Citizenship theorists have observed that aliens/refugees present a challenge for a nation-state and their idea of citizenship, which appears to have deepened the gap between citizens and aliens. Consequently, different advocates of citizenship theories have gone farther than the usual notion that the nation-state is the only true and lawful site of citizenship and moved citizenship outside of national boundaries, calling it "transnational", "post-national" or "global".[217] The extension of rights to aliens entails citizenship's post-nationalization, because the source of many of these rights lies in the international human rights regime, which accords recognition to individuals based on their personhood rather than their national affiliation.[218]

Citizenship only means to access to basic human rights at the discretion of the state. In this context, traditional ideas of citizenship can be separated from national standards, however, this does not change the fact that immigrants and refugees are excluded from the legal system and cannot access the civil, political and economic rights that come with it. As a result, they are treated as second-class citizens with limited rights and an uncertain future in the host country.[219] Rights guaranteed under the international human rights regime solely depend on the affirmative action of the state, to make them available to individuals. Certain analysts are in favor of post/transnational citizenship and the shifting role of the international human rights regime, to give importance to and identify universal personhood over and above national borders, therefore altering the national and global society. Several scholars make a case for offering

[217]Koprolin, E. and Soysal, Y.N. (1996). Limits of Citizenship: Migrants and Post national Membership in Europe. *International Migration Review*, 30(2), p.601. doi: https://doi.org/10.2307/2547397.
Dahlin, E.C. and Hironaka, A. (2008). Citizenship Beyond Borders: A Cross-National Study of Dual Citizenship*. *Sociological Inquiry*, 78(1), pp.54–73. doi: https://doi.org/10.1111/j.1475-682x.2008.00221.x.

[218] Personhood evokes the right and dignity of individuals independent of national status. Personhood stands for the universal, in contrast to citizenship which is ultimately exclusionary. See, Bosniak, L. (2010). Persons and citizens in constitutional thought. *International Journal of Constitutional Law*, 8(1), pp.9–29. doi: https://doi.org/10.1093/icon/mop031.

[219] Carens, J.H. and Shklar, J.N. (1992). American Citizenship: The Quest for Inclusion. *Political Science Quarterly*, 107(3), p.551. doi: https://doi.org/10.2307/2152455 Second-class citizens in the present context means, a person who is systematically discriminated against, withing a state or political community, despite their nominal status as citizens or legal residents. Marginalized population (citizens), refugees' migrants etc. are a few categories of second-class citizens who have limited legal rights, civil rights and socio-economic opportunities and may be subjected to neglect by the state authority or political community.

membership rights to all who wish to join, who choose to cooperate within the framework displayed by the state and accept having special rights and obligations towards it.[220]

Lastly, citizenship theorists have identified that the term citizenship also possesses another dimension, one that concerns the collective experience of people themselves, giving them a sense of identity and belongingness. It appears to be contradictory to try to make a case for aliens or refugees to acquire rights of membership within the context of a nation-state, which is associated with national identities, when collective identity, solidarity and belongingness are usually contained within the boundaries of a nation-state. Some theorists have developed on this thought and denote this feature of citizenship as 'patriotism'[221]. In a departure from the nationalist vision of citizenship, some scholars have questioned the extent to which citizenship is linked with possessing national identity. People have a tendency to align themselves with certain social and cultural groups within the state rather than with the nation as a whole, and some theorists argue that the concept of a shared national identity is nothing more than a mirage, based on the subjugation and exclusion of various social and cultural groups.[222]

In general, it is indisputable that citizenship is still determined by national borders, however, a reasonable argument can be made that the ideas and comprehension originally connected to citizenship go beyond the nation-state boundaries. The elements linked with citizenship- formal legal status, rights discourse, political participation or collective identity or belongingness are exclusionary in nature, if considered within the discourse of nationalist commitments. The

[220]Cohen, J. and "Walzer, M. (1986). Spheres of Justice: A Defense of Pluralism and Equality. *The Journal of Philosophy*, 83(8), p.457. doi: https://doi.org/10.2307/2026330 Carens, J.H. (1987). Aliens and Citizens: The Case for Open Borders. *The Review of Politics*, [online] 49(2), pp.251–273. Available at: http://www.jstor.org/stable/1407506?origin=JSTOR-pdf [Accessed 18 Feb. 2021], Scalettaris, G. (2007). Refugee Studies and the international refugee regime: a reflection on a desirable separation. *Refugee Survey Quarterly*, 26(3), pp.36–50. doi: https://doi.org/10.1093/rsq/hdi0241. Lamey, A. (2011). A liberal theory of asylum. *Politics, Philosophy & Economics*, 11(3), pp.235–257. doi: https://doi.org/10.1177/1470594x11416775

[221] Bauböck, R. (2003). Towards a Political Theory of Migrant Transnationalism. *International Migration Review*, 37(3), pp.700–723. doi: https://doi.org/10.1111/j.1747-7379.2003.tb00155.x Green, E.G.T., Sarrasin, O., Fasel, N. and Staerklé, C. (2011). Nationalism and patriotism as predictors of immigration attitudes in Switzerland: A municipality-level analysis. *Swiss Political Science Review*, 17(4), pp.369–393. doi: https://doi.org/10.1111/j.1662- 6370.2011.02030.x.

[222] Young, I.M. (1989). Polity and Group Difference: A Critique of the Ideal of Universal Citizenship. *Ethics*, 99(2), pp.250–274. doi: https://doi.org/10.1086/293065 Kymlicka, W. (2011). Multicultural citizenship within multination states. *Ethnicities*, 11(3), pp.281–302. doi: https://doi.org/10.1177/1468796811407813.

concept of citizenship contains within it both exclusionary and universalist commitments.[223] In the present context, what needs to be uncovered is whether this exclusionary, nationalist meaning of citizenship, prevalent in recent times, justified to neglect and discriminate people who share affiliations; whether social, cultural or political, within the territorial domains of the nation-state or beyond, from basic human rights of dignity, security and subsistence?[224]

Political theorists have extensively supported the claim of refugees towards inclusion and protecting their rights to uphold human dignity as a foundation for human rights discourse. One amongst them was Arendt, she emphasized on one universal right, enjoyed by all members of a polity, not dependent on race, nation or any other criteria, except for human being, that is *"the right to have rights"*. She argued that while other rights changed according to historical or other circumstances, there exists one right- human rights- of life, liberty, pursuit of happiness. She contends that human dignity necessaries a new assurance, which can only be discovered in a new all-inclusive political system directed by a law above states that can uphold the claims of humanity.[225] This view of inclusion and human dignity is reinforced by Sen, where he claims, can be achieved by harnessing the capability of an individual. He postulated that if the government offers opportunity to the marginalized/non-citizens in its region, they can use their own capability to be self-sufficient and decide their means of livelihood, security, and subsistence. Providing minimal capability to non-citizens/ marginalized section would not only give them significant economic and social freedom to be self- reliant, but would also benefit the host nation by not estimating them to be a burden. Inclusion on these terms would require adequate institutional reform within the government; a double pronged approach administered

[223] Bosniak, L.S. (2000). Citizenship Denationalized. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn.232082. Koprolin, E. and Soysal, Y.N. (1996). Limits of Citizenship: Migrants and Post national Membership in Europe. *International Migration Review*, 30(2), p.601. doi: https://doi.org/10.2307/2547397. Dahlin, E.C. and Hironaka, A. (2008). Citizenship Beyond Borders: A Cross-National Study of Dual Citizenship*. *Sociological Inquiry*, 78(1), pp.54–73. doi: https://doi.org/10.1111/j.1475-682x.2008.00221.x.

[224] See generally, SHUE, H. (2020). Basic Rights. doi: https://doi.org/10.2307/j.ctvqsdnkw.

[225]See Generally, Arendt, H. (1958) The Origins of Totalitarianism Available at: https://cheirif.files.wordpress.com/2014/08/hannah-arendt-the-origins-of-totalitarianism-meridian-1962.pdf.

by the government is a possible and favorable solution to maintain national interest together with fulfilling international humanitarian obligations.[226]

3.2.2 STATUS OF REFUGEES IN INDIA

India has a long-standing history of receiving refugees, rather than producing them. Overall, Though not technically bound by any significant international accords safeguarding refugees, such as the 1951 Convention for the Protection of Refugees and the 1967 Protocol for the Protection of Refugees, India has been a welcoming host to many. India has, on its own accord, fulfilled and followed international norms towards refugee protection. For a country with no refugee law, its general practice towards refugees is commendable.[227] However, absence of a uniform refugee legislations in the country has exposed the refugee population in the country to arbitrary decisions, inadequate legislations/ policies, institutional ambiguity and at the mercy of political fiat. The fault lines in refugee administration, including but not limited to; procedure of admission, status determination, treatment and protection of refugee, guaranteeing basic substantive rights- non-refoulement, education, healthcare, livelihood, employment etc. It has been a major concern for numerous scholars, who have continuously advocated for a uniform and comprehensive refugee legislation based on sound analyses of existing domestic laws, active role of Indian Judiciary vis-à-vis international standards.[228] Refugee regime in India has

[226] SEN, A. (2004). Elements of a Theory of Human Rights. *Philosophy Public Affairs*, 32(4), pp.315–356. doi: https://doi.org/10.1111/j.1088-4963.2004.00017.x. Sen, A. (2005). Human Rights and Capabilities. *Journal of Human Development*, [online] 6(2), pp.151–166. doi: https://doi.org/10.1080/14649880500120491.

[227] Chaudhary, O. (2004). Turning Back: An Assessment of Non-Refoulement under Indian Law. *Economic and Political Weekly*, [online] 39(29), pp.3257–3264. Available at: https://www.jstor.org/stable/4415288 [Accessed 21 March. 2021].

[228] See generally, Justice J.S. Verma at the Inaugural address, Conference on Refugees in the SAARC Region: Building a Legal Framework, New Delhi , 1997; B.S. Chimni (1994). The Legal Condition of Refugees in India. *Journal of Refugee Studies*, 7(4), pp.378–401. doi: https://doi.org/10.1093/jrs/7.4.378. VIJAYAKUMAR, V. (2000). Developments. Judicial Responses to Refugee Protection in India. *International Journal of Refugee Law*, 12(2), pp.235–243. doi: https://doi.org/10.1093/ijrl/12.2.235 IPCS Research Papers. (n.d.). Available at: http://www.ipcs.org/issue_briefs/issue_brief_pdf/51462796IPCS-ResearchPaper11-ArjunNair.pdf. Saxena, P. (2007). Creating Legal Space for Refugees in India: the Milestones Crossed and the Roadmap for the Future. *International Journal of Refugee Law*, 19(2), pp.246–272. doi: https://doi.org/10.1093/ijrl/eem007. Thames, H. (2015). *India's Failure to Adequately Protect Refugees*. [online] THE HUMAN RIGHTS BRIEF. Available at: https://www.semanticscholar.org/paper/India%27s-Failure-to-Adequately-Protect-Refugees-

been strictly a bilateral perspective, which views the refugee problem as temporary, anticipating the departure of refugees, once the situation improves in their country of origin. Previous studies drawing on similar premise have justified why many South Asian nations, including India, are not a signatory to the 1951 Convention and 1967 Protocol; stating that there are peculiar conditions that have been identified like, porous borders, which lead to mass influx of migrants, not just individuals; lack of administrative, political or military capacity to enforce rules of entry, which affect internal security, political and economic stability; large refugee flow from neighboring countries poses a threat to the local population, with a possibility of changing the cultural, religious, economic composition of the receiving area; lastly, for a developing nation like India, national interest and priorities take precedence over international humanitarian obligations imposed by the 1951 Convention and 1967 Protocol.[229] India, along with other South Asian countries, does not want to be restricted in their freedom of action by engaging with issues through multilateral channels in these conditions.[230]

Another grappling issue that has been extensively studied in the Indian context is the asymmetrical treatment of refugees within the territory. Researchers have found that the Indian

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Thames/640b3732a7b8f31556f77af15e8aac253ff8c464 [Accessed 23 Apr. 2023]. Acharya, B. (2016). *the Future of asylum in India: "Four principles to appraise recent Legislative proposals*. [online] Available at: http://nujslawreview.org/wp-content/uploads/2017/01/2016-9-3-4-Bhairav-Acharya-The-Future-of-Asylum-in-India_-Four-Principles-to-Appraise-Recent-Legislative-Proposals.pdf [Accessed 6 Dec. 2022]. Trakroo, R., Jayshree, Z. and Saood Tahir, S. (n.d.). *REFUGEES AND THE LAW*. [online] Available at: https://slic.org.in/uploads/2017/09/Refugee-and-the-Law_2nd-edition.pdf [Accessed 23 Apr. 2023]. Shuvro Prosun Sarker (2017). *Refugee Law in" India*. *Springer eBooks*. Springer Nature. doi: https://doi.org/10.1007/978-981-10-4807-4. Nirmal, B.C. and Sarker, S.P. (2019). Review of REFUGEE LAW IN INDIA: THE ROAD FROM AMBIGUITY TO PROTECTION (2017). *Journal of the Indian Law Institute*, [online] 61(2), pp.279–288. Available at: https://www.jstor.org/stable/27097365 [Accessed 23 Apr. 2023].

[229]CHIMNI, B.S. (1994). The Legal Condition of Refugees in India. *Journal of Refugee Studies*, 7(4), pp.378–401. doi: https://doi.org/10.1093/jrs/7.4.378 Weiner, M.W. (1993). Rejected peoples and unwanted migrants in south Asia. *Economic and Political Weekly*, 28(34). Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

[230] CHIMNI, B.S. (1994). The Legal Condition of Refugees in India. *Journal of Refugee Studies*, 7(4), pp.378–401. doi: https://doi.org/10.1093/jrs/7.4.378 Weiner, M.W. (1993). Rejected peoples and unwanted migrants in south Asia. *Economic and Political Weekly*, 28(34). Vijayakumar, V. (2001). Critical Analysis of Refugee Protection in South Asia. *Refuge: Canada's Journal on Refugees*, pp.6–16. doi: https://doi.org/10.25071/1920-7336.22073 Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

Government, not having any national refugee laws, has been biased and preferential in dealing with refugees, whether with entry, settlement, or relocation, work, learning, or substantial benefits. This discrimination is largely based on their country of origin, ethnic and religious affiliations, bilateral relations with the country of origin, or any beneficial, resourceful factor associated.[231] From the perspective of refugee rights, there is no reason why one refugee community should receive less assistance than the other. Therefore, there is a need to ensure parity amongst refugee groups regarding the help or opportunities they receive; determining a minimal level of assistance, right to livelihood, employment, healthcare, education etc. under the living standards for existing in the country.[232] In India, refugees are subject to a non-standard refugee policy. They get scattered help from the government as well as some non-governmental agencies, consequently creating a legal space for them should be a priority. Previous studies have traced the degree of humanitarian help provided by the GoI and UNHCR to various refugee groups like Tibetans (1959), Bangladeshis (1971), Chakma's (1963), Sri Lankan Tamils (1983, 1989, 1995), Afghans and recently Rohingya.[233] Even without

[231]CHIMNI, B.S. (1994). The Legal Condition of Refugees in India. *Journal of Refugee Studies*, 7(4), pp.378–401. doi: https://doi.org/10.1093/jrs/7.4.378. VIJAYAKUMAR, V. (2000). Developments. Judicial Responses to Refugee Protection in India. *International Journal of Refugee Law*, 12(2), pp.235–243. doi: https://doi.org/10.1093/ijrl/12.2.235 IPCS Research Papers. (n.d.). Available at: http://www.ipcs.org/issue_briefs/issue_brief_pdf/51462796IPCS-ResearchPaper11-ArjunNair.pdf. Samaddar, R. (2003). *Refugees and the State practices of asylum and care in India 1947-2000*. SAGE Publications India. Trakroo, R., Jayshree, Z. and Saood Tahir, S. (n.d.). *REFUGEES AND THE LAW*. [online] Available at: https://slic.org.in/uploads/2017/09/Refugee-and-the-Law_2nd-edition.pdf [Accessed 23 Apr. 2023]. Shuvro Prosun Sarker (2017). *Refugee Law in India*. *Springer eBooks*. Springer Nature. doi: https://doi.org/10.1007/978-981-10-4807-4 Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs"*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

[232] Trakroo, R., Jayshree, Z. and Saood Tahir, S. (n.d.). *REFUGEES AND THE LAW*. [online] Available at: https://slic.org.in/uploads/2017/09/Refugee-and-the-Law_2nd-edition.pdf [Accessed 23 Apr. 2023].

[233] Indian Government has recognized selected group of refugees like Tibetans and Sri Lankan Tamils who have received assistance in identity documents, transit camp settlements, food supplies, medical facilities, limited employment opportunities etc. directly by the Indian Government. on the other hand, many refugees like the Somalis, Afghans, Burmese, have not been recognized by the Indian Government; rely on assistance services provided by the UNHCR's implementing partners e.g. YMCA, Don Bosco, Socio-legal Centre (SLIC). These organizations help refugees to get the refugee status card, accommodation, education for children and young adults, psychosocial support and vocational training, assistance in legal matter and documentation procedures. See, www.hrln.org Trakroo, R., Jayshree, Z. and Saood Tahir, S. (n.d.). *REFUGEES AND THE LAW*. [online] Available at: https://slic.org.in/uploads/2017/09/Refugee-and-the-Law_2nd-edition.pdf [Accessed 23 June. 2021]. Also see generally, Das, S.K. (2003) State Response to Refugee Crisis: Relief and Rehabilitation in the East. In: R. Samaddar, ed., *Refugee and the State: Practices of Asylum and Care in India, 1947- 2000*. Sage. New Delhi, Kaveri and Rajan, S.I. (2023). The politics of statelessness, refugeehood, and humanitarianism of the

substantial international help, India Government has been generous towards mass refugee population. On the contrary, the treatment of different classes of refugees and similar refugees in different states within the country varies, demonstrating inconsistency between the national and state governments and an uneven approach to refugees.[234]

Two essential inferences have been drawn from research done previously, which demonstrate that, on the one hand, the Indian Judiciary has acknowledged refugees in a different way from other foreigners and has covertly incorporated refugee law into the legal system.[235] While, on the other, arbitrary treatment of refugees by the executive has failed in dispensing rights- based; humanitarian justice in the existing refugee situation. Several Indian scholars have provided important insights in the Indian context, stating that combination of factors like, historical, geographical and economic position of the Indian Sub-continent vis-à-vis its neighbors, unregulated porous borders; internal political regimes; institutional inadequacy, absence of a national legislation on refugees/ asylum seekers/ migrants has created a Catch-22 situation not only for the refugee population but also the Indian Government in dealing with them. As a way forward, together these studies support the enactment of a refugee- specific legislation to avoid political, legal and administrative ambiguity; clarity in legal status would prove beneficial for the State and refugees; to identify legitimate claims; regulate illegal entry in the territory;

Rohingyas. *Frontiers in Human Dynamics*, 4. doi: https://doi.org/10.3389/fhumd.2022.921461 Saxena, P. (2007). Creating Legal Space for Refugees in India: the Milestones Crossed and the Roadmap for the Future. *International Journal of Refugee Law*, 19(2), pp.246–272. doi: https://doi.org/10.1093/ijrl/eem007 Mehrotra, A. and Bhardwaj, C. (2022). "Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

[234] VIJAYAKUMAR, V. (2000). Developments. Judicial Responses to Refugee Protection in India. *International Journal of Refugee Law*, 12(2), pp.235–243. doi: https://doi.org/10.1093/ijrl/12.2.235. Chimni, B.S. (2003) Status of Refugees in India: Strategic Ambiguity. In: R. Sammadar, ed., *Refugees and the State: Practice of Asylum Care in India 1947-2000*. Sage. New Delhi. Pp. 277-313. Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

[235] Saxena, P. (2007). Creating Legal Space for Refugees in India: the Milestones Crossed and the Roadmap for the Future. *International Journal of Refugee Law*, 19(2), pp.246–272. doi: https://doi.org/10.1093/ijrl/eem007 Bhattacharjee, S. (2008). India Needs a Refugee Law. *Economic and Political Weekly*, [online] 43(9), pp.71–75. Available at: https://www.jstor.org/stable/40277209 [Accessed 4 May 2021]. Mehrotra, A. and Bhardwaj, C. (2022). Need for a National Legislation on Refugees in India at 75. *India Quarterly: A Journal of International Affairs*, p.097492842210895. doi: https://doi.org/10.1177/09749284221089531.

naturalization process; providing targeted and uniform rights-based regime to the refugee population.[236]

3.3 STUDYING THE TIBETAN EXILE COMMUNITY: OBJECTIVES, RESEARCH DESIGN AND METHODOLOGICAL REQUIREMENTS

On an epistemological level, any social science research undertaken on refugees has dual objectives: first, to explain the fundamental issues prevailing amongst the forced migrants/ refugees; structural, social, and political environment, which influences their reflexive process of thinking and rationale to protect their identity, whilst struggling through the normalization process of resettling, assimilating, and distancing in the host nation. *"There is a lived tension, experiences of separation and entanglement, of living here and remembering/ desiring another place."*[237] Second, the intent of such research is also to influence policy, agencies, government to create an effective response in dealing with the refugee population, contributing to relevant reports/ data published by human rights organizations. Previous studies have determined that the clarity of the research goals is largely dependent upon the topic of the research, for example,

[236] CHIMNI, B.S. (1994). The Legal Condition of Refugees in India. *Journal of Refugee Studies*, 7(4), pp.378–401. doi: https://doi.org/10.1093/jrs/7.4.378. Wani, M.A. (1999). REFUGEE CRISIS AND THE UNIVERSAL HUMAN RIGHTS INSTRUMENTS : AN OVERVIEW OF FIFTY YEARS DEVELOPMENTS. *Journal of the Indian Law Institute*, [online] 41(2), pp.201–221. Available at: https://www.jstor.org/stable/43951714 [Accessed 24 Apr. 2023]. Chimni, B.S. (2000). Globalization, Humanitarianism and the Erosion of Refugee Protection. *Journal of Refugee Studies*, 13(3), pp.243–263. doi: https://doi.org/10.1093/jrs/13.3.243. VIJAYAKUMAR, V. (2000). Developments. Judicial Responses to Refugee Protection in India. *International Journal of Refugee Law*, 12(2), pp.235–243. "doi: https://doi.org/10.1093/ijrl/12.2.235 Baruah, S. (2003). Citizens and Denizens: Ethnicity, Homelands, and the Crisis of Displacement in Northeast India. *Journal of Refugee Studies*, 16(1), pp.44–66. doi: https://doi.org/10.1093/jrs/16.1.44 Ranabir Samaddar (2009). India. *Oxford University Press eBooks*, pp.112–122. doi: https://doi.org/10.1093/acprof:oso/9780195388138.003.0008 Banerjee, P. (2014). Forced Migration in South Asia. *Oxford University Press eBooks*. doi: https://doi.org/10.1093/oxfordhb/9780199652433.013.0030 Bhattacharjee, S. (2008). India Needs a Refugee Law. *Economic and Political Weekly*, [online] 43(9), pp.71–75. Available at: https://www.jstor.org/stable/40277209 [Accessed 4 May 2021]. Ramasubramanyam, J. (2021). Part III Regional Regimes, Ch.22 Regional Refugee Regimes: South Asia. *Oxford University Press eBooks*, pp.407-C22.P43. doi: https://doi.org/10.1093/law/9780198848639.003.0023..

[237] Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan. Basu, S. (2020). Sudeep Basu, In Diasporic Lands: Tibetan Refugees and Their Transformation Since the Exodus. *Journal of the Anthropological Survey of India*, 69(1), pp.182–185. doi: https://doi.org/10.1177/2277436x20928442.

the refugee population, their displacement experiences, resettlement journeys, social identities, and so on.[238] Research into policy is becoming more prominent, and this is showing human rights violations, thus calling for more action-oriented governance from both international and national governments to protect refugees. However, paradoxically, the lived experience, cultural transformation, social identity and struggles of assimilation of refugees are dismissed and rarely form a part of policies/ program/ legislations, etc.[239] Research on refugees and other marginalized groups is essential, as it can have emancipatory effects on policy change and development, as well as provide a platform for refugees to express their experiences, realities, and current crises.[240] In their study, Jacobsen and Landau point out the need for an impactful and ethical social science research, and they suggest having a sound method to recognize and assess the limits and strengths of the techniques used for data gathering and for drawing conclusions.[241]

3.3.1 OBJECTIVES OF THE STUDY

The current study is designed as a comparative ethnography of Tibetan exile communities in India, exploring three different local contexts (Ladakh, Darjeeling and Dharamshala case studies) bottom-up and from a socio-legal perspective. At the same time, the thesis embeds ethnographic insights within the wider legal frameworks that constitute India's refugee laws, critically assessing official government policies and informal state practices as well as existing statutes, pending legislations and law reform debates in general. This thesis, through a bottom-

[238]Jacobsen, K. and Landau, L.B. (2003). The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration. *Disasters*, 27(3), pp.185–206. doi: https://doi.org/10.1111/1467-7717.00228.

[239] Jacobsen, K. and Landau, L.B. (2003). The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration. *Disasters*, 27(3), pp.185–206. doi: https://doi.org/10.1111/1467-7717.00228.

[240] Dolma, K.C. (2001). Construction of social identities : an ethnographic study of Tibetan student discourses in higher education. *Doctoral Dissertations 1896 - February 2014*. [online] Available at: https://scholarworks.umass.edu/dissertations_1/2338 [Accessed 24 Apr. 2023].

[241] Jacobsen, K. and Landau, L.B. (2003). The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration. *Disasters*, 27(3), pp.185–206. doi: https://doi.org/10.1111/1467-7717.00228.

up and longitudinal (longue durée) and cross- generational study,[242] intends to determine the pattern and extent of legal recognition, disbursement of rights and resources, and institutional/ governmental support given to Tibetans; and whether resolutions of assistance by the Indian Government match the realities and lived experience of Tibetan's. Thirdly, the study analyzes political, social and moral predicaments of the Tibetan exile population within the domain of naturalization[243] prospects in India, vis-à-vis the risk of forsaking their 'identity', 'nationality' and 'sense of belongingness'.[244] Finally, in an effort to make a larger contribution to the expanding field of international refugee management, the study aims to identify any lessons that can be applied to the Tibetan case study. These lessons are primarily focused on burden-sharing and responsibility, relieving pressure on host countries, and promoting refugee self-reliance, all of which are outlined in the Global Compact on Refugees[245] and the 1951 Convention and its 1967 Protocol.

[242] It is pertinent to note that by conducting a cross-generational study on three generation of Tibetans at various field sites, the researcher seeks to trace the evolution and changes of the Tibetan exile community in India, spanning over six decades. The thesis, through an in-depth investigation of the research questions, has highlighted and assessed the long-term socio-legal difficulties confronted by Tibetans, starting from their arrival in India up to the present day which has been supported by interview excerpts from three generation of Tibetans across time and space.

[243] Citizenship by Birth under Section 3 (1)(a) of Citizenship Act, 1955, (Amendment Act, 1986), Indian Citizenship claims by birth – section 3 (1) (a) & 3 (1) (b) Indian Citizen by Birth and grant of passports to Tibetans born in India between 26/1/1950 to 1/7/1987 by virtue of the Citizenship Act 1955, Amendment 1986, 2003.On or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth). www.indiacode.nic.in. (n.d.). *India Code: Section Details*. [online] Available at: https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_40_00001_195557_1517807319455&orderno=3 [Accessed 24 Apr. 2023].

[244] Kharat, R. (2003) Gainers of a Stalemate: The Tibetans in India. In R. Samaddar (ed.) *Refugees and the State: Practices of Asylum and Care in India, 1947–2000* (pp. 281–320). New Delhi: Sage Publications. Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459. Rolfe, E. (2008). REFUGEE, MINORITY, CITIZEN, THREAT. *South Asia Research*, 28(3), pp.253–283. doi: https://doi.org/10.1177/026272800802800302. Bentz, A.-S. . (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016 Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1

[245] Refugees and Migrants. (2018). *Global Compact on Refugees*. [online] Available at: https://refugeesmigrants.un.org/refugees-compact

After two years of comprehensive consultations coordinated by UNHCR with Member States, International Organizations, refugees, civil society, the commercial sector, and experts, the United Nations General Assembly approved the Global Compact on Refugees on December 17, 2018. The Global Compact on Refugees is a framework for more predictable and equitable responsibility-sharing, recognizing that a long-term solution to refugee crises requires international cooperation. It lays forth a plan for governments, "international

3.3.2 RESEARCH QUESTIONS

Based on the themes and objectives, the study will endeavor to address four primary questions:

1. Legal Recognition - What are the patterns and extent of, across time and space, of legal recognition of Tibetan exile communities by the Indian State (Union and State levels)?
2. Intra group marginalization and Exclusion - To what extent is the effectiveness of socio-economic rights of Tibetan exiles unevenly distributed between groups and individuals? (To what extent ineffectiveness of socio-economic is rooted in missing membership status?)
3. When refugees refuse rights: the politico-legal complexities of Tibetans-in-Exile - What are the ethnographically determinable reasons (socio-legal, identity politics based) for Tibetans to refuse formal integration into the Indian polity? To what extent is Indian Citizenship perceived as a threat to Tibetan Identity?
4. Lessons learnt from the Tibetan case study and wider policy/reform implications–The thesis also aims to re-conceptualize the specificity of ethnographic insights through the wider prism of law reform in general,- it identifies which of the lessons learnt can play a role for domestic law reform debates (National Asylum Bill, 2015)[246] or even global refugee law reform debates (India's acknowledgment and commitment towards the Global Compact on Refugees).

organizations, and other stakeholders to follow in order to ensure that host countries receive the assistance they require and that refugees may lead productive lives. It represents a once-in-a-lifetime opportunity to change how the world responds to refugee situations, benefiting both refugees and the communities that host them. Despite the fact that India is not a signatory to the 1951 Convention or the 1967 Protocol, nor does it have a national framework for refugee protection, India's recent commitment to the Global Compact on Refugees gives hope and upholds the country's long-standing tradition and efforts to provide humanitarian assistance to refugees., See generally https://www.unhcr.org/about-unhcr/who-we-are/global-compact-refugees.

[246] Shashi Tharoor, D. (n.d.). *THE ASYLUM BILL, 2015*. [online] Available at: http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/3088LS.pdf [Accessed 24 Apr. 2023].

3.3.3 RESEARCH GAP AND SIGNIFICANCE OF STUDY

The existing accounts of research on the Tibetan diaspora in exile, as discussed previously,[247] have been limited and inadequate in the following aspects: study on unequal distribution of rights and resources between groups and individuals to comprehend the existing fault lines; patterns and extent of legal recognition of Tibetans across time and space by the Indian Government; interplay and interaction between Tibetan community and the State actors; extent of intra group marginalization and exclusion, effectiveness of policies/ legislations granting socio-economic welfare rights; identifying and analyzing the link between effective disbursement of socio-economic rights and membership status. Further, the research studies conducted till now have majorly focused on the asymmetrical policy execution and arbitrary treatment of refugee groups in the country. The present study identifies the importance of understanding group identities, group politics and formalizing group and individual rights of refugees.

The present study focuses on the politico-legal complexities of Tibetans-in-Exile, with their representative government (Central Tibetan Administration) as well as the Indian Government, which have been inadequately highlighted in the past, doing so would help determine ways and

[247] Saklani, G. (1978). Tibetan Refugees in India: A Sociological Study of an Uprooted Community. The Tibet Journal, [online] 3(4), pp.41–46. Available at: https://www.jstor.org/stable/43299920 [Accessed 5 Aug. 2022]. McGranahan, C. (2005). Truth, Fear, and Lies: Exile Politics and Arrested Histories of the Tibetan Resistance. Cultural Anthropology, [online] 20(4), pp.570–600. Available at: https://www.jstor.org/stable/3651543 [Accessed 24 Apr. 2023]. Routray, B.P. (2007). Tibetan refugees in India: religious identity and the forces of modernity. Refugee Survey Quarterly, 26(2), pp.79–90. doi: https://doi.org/10.1093/rsq/hdi0229 Frechette, A. (2007). Democracy and Democratization among Tibetans in Exile. The Journal of Asian Studies, [online] 66(1), pp.97–127. Available at: https://www.jstor.org/stable/20203107 [Accessed 24 Apr. 2023]. Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459. Rolfe, E. (2008). REFUGEE, MINORITY, CITIZEN, THREAT. *South Asia Research*, 28(3), pp.253–283. doi: https://doi.org/10.1177/026272800802800302. Ahmad, J. (2012). Tibetan Diaspora in India: Longing and Belonging. The Tibet Journal, [online] 37(4), pp.35–44. Available at: https://www.jstor.org/stable/tibetjournal.37.4.35 [Accessed 24 Apr. 2023]. Asfuroglu, P. (2012). THE POLITICS OF REPRESENTATION: THE CONSTRUCTION OF THE TIBETAN NATIONAL IDENTITY IN EXILE. [online]" Available at: https://studenttheses.universiteitleiden.nl/access/item%3A2627049/view [Accessed 24 Apr. 2023]. McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. Annals of the Association of American Geographers, [online] "103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023].

means for formalizing the status of Tibetan exile population into the Indian polity or not. Finally, existing accounts of Tibetans in exile have given limited or controversial information about the dilemmas faced by Tibetans every day, choosing to preserve their identity-nationality, sense of belongingness; hoping to go back to their homeland, over, securing a better life for themselves and their future generations, by accepting membership rights in India.[248] In fact, extensive research needs to be conducted to propose policy reforms which suggest recognizing a status- based position of refugees that would give basic human dignity, protect their essential interests to subsist and protection from arbitrary treatment by state officials. The present research studies the intra group asymmetries in comparative socio-legal perspective, which is bound to find informal mechanisms that should be formalized and is bound to identify formal rules which have unintended exclusions, which is innovative and has so far been absent from the study of Tibetans in India.

What is established clearly through the review of secondary material on Tibetans in Exile and their refugee experience is their collective awareness of the need for socio-economic survival and preservation of ethos or Tibetan identity as an outcome of being in exile. As shown by literature on Tibetans in Exile, the 'will' and 'determination', along with cultural ideologies, histories, traditions and national identities, of the Tibetan people have been unanimously centered on preserving their exilic identity and returning to their homeland. Therefore, the resultant research study seeks, as its aim, an comprehending of this theme; which has meaning and relevance in constructing their social- ethnic identity as Tibetan Nationals and interactions

[248]Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459. Rolfe, E. (2008). REFUGEE, MINORITY, CITIZEN, THREAT. *South Asia Research*, 28(3), pp.253–283. doi: https://doi.org/10.1177/026272800802800302 Bentz, A.-S. (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016. Ahmad, J. (2012). Tibetan Diaspora in India: Longing and Belonging. The Tibet Journal, [online] 37(4), pp.35–44. Available at: https://www.jstor.org/stable/tibetjournal.37.4.35 [Accessed 24 Apr. 2023]. Asfuroglu, P. (2012). THE POLITICS OF REPRESENTATION: THE CONSTRUCTION OF THE TIBETAN NATIONAL IDENTITY IN EXILE. [online]" Available at: https://studenttheses.universiteitleiden.nl/access/item%3A2627049/view [Accessed 24 Apr. 2023]. McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. Annals of the Association of American Geographers, [online] "103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023].

with the host community as temporary refugees. The methodological conceptualization of this thesis is bound to produce new insights for our socio-legal understanding of refugees in India. It increases our knowledge of the Tibetan community in India beyond the scope of law, at the same time giving new visions into the socio-legal reality of refugee-state interaction in general.

3.3.4 RESEARCH DESIGN AND METHODOLOGICAL REFLECTIONS

i) Socio-Legal Study and Bottom-Up Approach

Jacobsen and Landau in their study on methodological and ethical considerations in refugee research have claimed that sizable research on forced migration is weakened because key components of the research design and methodology are never revealed.[249] Impactful research demands researchers to specify and explain their methods and processes; number of interviewees, location of the interviews, sampling strategy, interview schedule and design, access to location, ethical and security issues, etc. The present study specifically provides motives for selecting the research design and methods employed to research Tibetan exile community in three local contexts (Ladakh, Darjeeling, and Dharamshala). The present research identifies, consolidating three key methodological/ research design features intrinsic to study the Tibetan exile community: socio-legal design, ethnographic comparative case study, and bottom-up approach. According to Voutira & Dona's study, recent improvements in refugee research have allowed for the use of inventive investigation strategies, combining interdisciplinary, bottom-up approaches and establishing a balance between advocacy and scholarship.[250] This thesis innovates through a comparative ethnographic case study from a socio-legal perspective, including but not limited to, refugee- centric issue like linkage between the legal status of Tibetans and their livelihood possibilities; membership rights and Tibetan

[249] Jacobsen, K. and Landau, L.B. (2003). The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration. *Disasters*, 27(3), pp.185–206. doi: https://doi.org/10.1111/1467-7717.00228.

[250] Voutira, E. and Dona, G. (2007). Refugee Research Methodologies: Consolidation and Transformation of a Field. *Journal of Refugee Studies*, 20(2), pp.163–171. doi: https://doi.org/10.1093/jrs/fem017.

identity politics; preserving Tibetan nationality and diasporic shift towards formal and informal integration into the Indian community.

Historically, disciplines like international relations, law, economics etc. have focused on studies which are top down, i.e. starting with law, legislation, legal rules and decisions to examine and evaluate their regulatory effectiveness within its normative domain (state perspective). Especially in the field of legal research, where effectiveness and uniformity of law is studied as a sealed system that embodies an internal view.[251] Legal scholars researching within mainstream legal studies interpret, critique and validate their research by referring to sources such as statutes, legal cases and opinions that fit into the existing normativity of law.[252] However, researchers have also understood the importance of adopting an interdisciplinary (socio-legal) bottom-up approach to develop or critically analyze state policies and legislations.[253] A socio-legal study results in examining the gap between normative and factual dimensions of law and its observable impact on society, it is possible that the gap is not necessarily caused by the weakness of law but as an outcome of the way legal system understands and reconstructs social relations. Similarly, Banakar in his study states that:

"Socio-legal study represents an external view of how law is de facto generated through social practices and how it operates as a social system. A variety of theoretical perspectives and research designs can describe law in its social setting."[254]

Combining socio-legal study and bottom-up approach as research design enables in examining an individual or group's legal awareness and practices as well as their interaction with legal institutions in general. Selecting a bottom-up approach in a socio-legal study allows for an

[251]Banakar, R. (2019). *On Socio-Legal Design*. [online] papers.ssrn.com. Available at: https://ssrn.com/abstract=3463028 [Accessed 24 Apr. 2023].
[252] Smits, J.M. (2017). What Is Legal Doctrine? *Cambridge University Press eBooks*, pp.207–228. doi: https://doi.org/10.1017/9781316442906.006.
[253]Harrell-Bond, B.E. and Voutira, E. (1992). Anthropology and the Study of Refugees. *Anthropology Today*, 8(4), p.6. doi: https://doi.org/10.2307/2783530. CHIMNI, B.S. (1998). The Geopolitics of Refugee Studies: A View from the South. *Journal of Refugee Studies*, 11(4), pp.350–374. doi: https://doi.org/10.1093/jrs/11.4.350-a. Voutira, E. and Dona, G. (2007). Refugee Research Methodologies: Consolidation and Transformation of a Field. *Journal of Refugee Studies*, 20(2), pp.163–171. doi: https://doi.org/10.1093/jrs/fem017
[254]Banakar, R. (2019) On Socio-Legal Design. Lund University. Electronic copy available at: https://ssrn.com/abstract=3463028.

exploration of the daily experiences of an individual or group in their social realm, as well as how they interact with the law and legal authorities. It is the standpoint a researcher employs to the study that enables answering primary questions of the research, targeted data collection and its analysis. In this day and age, researching refugees is many-sided, progressing, and complex, which necessitates the formation of a space that goes beyond set scholarly protocols, where 'refugees' and their 'lived experience' direct the concentration and perspective of the research, and also provide accurate depictions of how the law manifests itself at various levels of social reality.

This thesis employs a bottom-up approach and socio-legal lens to study the Tibetan exile community, their process of gradual transformation and interactions within the Indian diaspora; examining factors like Tibetan identity, self- preservation and sense of belongingness within their community, being the reasons for their subsistence and growth in the Indian community for over six decades. However, over time, has embroiled their interactions with their own government (Central Tibetan Administration) as well as Indian state actors, creating a state of limbo for the community. The present study examines existing legislations and policies governing Tibetans in India; tracing their status, socio- economic arrangements, policy transitions and stalemates, legally as non-citizens/ refugees, and simultaneously attempts to understand the social position within their own community. Especially in the context for Tibetans, the daily issues of whether to accept Citizenship/ membership rights in India that come with many rights, or reject integration for the purpose of preserving the 'Tibetan Cause'. Previous studies claim that refugees remain in a state of limbo or transition until they are integrated into the host community as citizens or return to their state of origin.[255] Tibetan exile

[255] McGranahan, C. (2005). Truth, Fear, and Lies: Exile Politics and Arrested Histories of the Tibetan Resistance. *Cultural Anthropology*, [online] 20(4), pp.570–600. Available at: https://www.jstor.org/stable/3651543 [Accessed 24 Apr. 2023]. Routray, B.P. (2007). Tibetan refugees in India: religious identity and the forces of modernity. *Refugee Survey Quarterly*, 26(2), "pp.79–90. doi: https://doi.org/10.1093/rsq/hdi0229 Rolfe, E. (2008). REFUGEE, MINORITY, CITIZEN, THREAT. *South Asia Research*, 28(3), pp.253–283. doi: https://doi.org/10.1177/026272800802800302. Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459. Bentz, A.-S. . (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016 McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the*

population in the present context face a similar predicament within the legal domain, ensuing in nonexistent legal recognition by the India government and in socio-political context within their community and government (Central Tibetan Administration).

ii) **Comparative Ethnographic Case Study**

The method of research chosen will determine how much depth and insight the researcher can gain into the social reality they are examining, and sometimes the overall design and aim of the study will determine which data collection and analysis method is best suited. Scholars in previous studies have established that there is no fixed method to examine the population of forced asylum seekers, migrants, refugees or displaced. The settings in which a researcher finds herself, shape the progression and tool kit of field research.[256] This view is supported by Guerin & Guerin in their research with refugee communities. Drawing from their experiences in the field, to establish that there is no one fixed method of studying refugees. It is asserted that refugees, both as a people and within their own communities, are diverse, unique and ever-changing, shaped by their experiences and their interactions with the environment around them. It would be impossible to analyze their complexities through the usual methodical process, thus, requiring the necessity of being flexible and open-minded, blending different approaches and tools to gain a detailed understanding of their contexts and stories.[257]

It has been asserted by academics that qualitative method such as ethnography is a proficient manner of recognizing the contextual setting of a group or population (home, family, work), the life stories of people, and the relationship between power dynamics in a social

Association of American Geographers, [online] 103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023].

[256] Harrell-Bond, B.E. and Voutira, E. (1992). Anthropology and the Study of Refugees. *Anthropology Today*, 8(4), p.6. doi: https://doi.org/10.2307/2783530. Malkki, L.H. (1995). Refugees and Exile: From 'Refugee Studies' to the National Order of Things. *Annual Review of Anthropology*, 24(1), pp.495–523. doi: https://doi.org/10.1146/annurev.an.24.100195.002431.

[257] Guerin, P. and Guerin, B. (2007). Research with refugee communities: Going around in circles with methodology. *Australian Community Psychologist*, 19(1), pp.150–162. The Australian Community Psychologist. (n.d.). Available at: https://groups.psychology.org.au/Assets/Files/GuerinGuerinb_19(1)2.pdf [Accessed 24 Apr. 2023].

atmosphere.[258] Its multi-faceted approach makes it applicable across the social science discipline, education, health studies, sociology, organizational studies, public policy, legal studies. Numerous scholars argue that social structures (objects) like institutions, rules, laws, resources are not distinct entities, from agents/ individuals (subjects); they are interdependent and interrelated in everyday life. Understanding either the structure or agency for any policy or socio- legal reform would require a detailed study of both contextually. As a methodology, ethnography operates as a medium to bring forth rich narratives of the subjects through a historical flow of events within the structural domain. It highlights the broader structures, and the ideas and emotions of those involved in daily life and individual activities, demonstrating to be the perfect approach to studying the connections between the realities of social life and the social structures.[259]

In the same disposition, Elizabeth Colson claims that ethnography as a research instrument to study refugees provides wholistic insights into the lives of refugees and their linkages. Since people both make history and are a product of history through their connections with others.[260] An ethnographic study examines the different levels of intricate relationships that refugees experience daily, both with each other and with connecting networks such as the host government, relief organizations, and the host community. This composite structure of interaction steers the whole system of values, categories, institutional arrangements, etc. around

[258]Creswell, J.W. (2013). *Qualitative Inquiry and Research Design: Choosing among Five Traditions*. 3rd ed. Thousand Oaks: Sage. Available at: http://www.ceil-conicet.gov.ar/wp-content/uploads/2018/04/CRESWELLQualitative-Inquary-and-Research-Design-Creswell.pdf. Flick, U. (2018). *Introduction To Qualitative Research.* 6th ed. London: Sage. Available at: https://elearning.shisu.edu.cn/pluginfile.php/35310/mod_resource/content/2/Research-Intro-Flick.pdf..

[259] Flood, J. (2006). *Socio-Legal Ethnography*. [online] papers.ssrn.com. Available at: https://ssrn.com/abstract=949887 [Accessed 24 Apr. 2023]. Eastmond, M. (2007). Stories as Lived Experience: Narratives in Forced Migration Research. *Journal of Refugee Studies*, 20(2), pp.248–264. doi: https://doi.org/10.1093/jrs/fem007 Colson, E. (2007). Linkages Methodology: No Man is an Island. *Journal of Refugee Studies*, 20(2), pp.320–333. doi: https://doi.org/10.1093/jrs/fem014 Flood, J. (2006). *Socio-Legal Ethnography*. [online] papers.ssrn.com. Available at: https://ssrn.com/abstract=949887 [Accessed 24 Apr. 2023]. Bourdieu, P. (1985). The Social Space and the Genesis of Groups. *Theory and Society*, [online] 14(6), pp.723–744. Available at: https://www.jstor.org/stable/657373.

[260] Colson, E. (2007). Linkages Methodology: No Man is an Island. *Journal of Refugee Studies*, 20(2), pp.320–333. doi: https://doi.org/10.1093/jrs/fem014.

refugees and molds their thinking and rationale.[261] Every ethnographic research is guided by a theoretical problem or general area of interest. It may not be rigid or fixed but can be adapted or discarded as the research progresses. A research design for conducting ethnography is essential. John Flood in his study on socio-legal ethnography states that ethnography gives an understanding into the richness of social life. It situates the researcher simultaneously, on the inside and outside the contextual setting.[262]

For this thesis, a holistic approach is utilized, collaborating socio-legal study as research design and ethnographic method offer fresh insights to conduct comparative research on Tibetan exile community across India. It accomplishes the objective of identifying and characterizing the context and environment of the refugee community within their social domain, as well as their understanding and relationship with government agencies and institutional legal frameworks. By employing this methodological approach, Tibetans are studied within the complexity of their contingent reality, articulated by interplay between local/ state authorities of the Indian government and the CTA; which also makes the Tibetan exile community recognize their fallibility and their strengths. Drawing inspiration from the multi-faceted, seminal ethnographic study by Julie Peteet (2005) on Palestinian refugees, that examines tensions and interplay between, structural constrains imposed on refugees by displacement, refugee camps, international agencies and host government, and refugees' individual and collective agency in crafting daily lives that transformed these structures and spaces.[263] This thesis study, analyzes the 'state of limbo' of the Tibetan diaspora by undertaking a socio-legal ethnographic study that examines the interface of social and legal domains, informal regulations, administrative

[261] Mackenzie, C., McDowell, C. and Pittaway, E. (2007). Beyond 'Do No Harm': The Challenge of Constructing Ethical Relationships in Refugee Research. *Journal of Refugee Studies*, 20(2), pp.299–319. doi: https://doi.org/10.1093/jrs/fem008 Colson, E. (2007). Linkages Methodology: No Man is an Island. *Journal of Refugee Studies*, 20(2), pp.320–333. doi: https://doi.org/10.1093/jrs/fem014.

[262] Banakar, R. and Travers, M. (2005). *Introduction to Theory and Method in Socio-Legal Research*. [online] papers.ssrn.com. Available at: http://ssrn.com/abstract=1511112 [Accessed 24 Apr. 2023]. Flood, J. (2006). *Socio-Legal Ethnography*. [online] papers.ssrn.com. Available at: https://ssrn.com/abstract=949887 .

[263] Peteet, J. (2005). *Landscape of Hope and Despair: Palestinian Refugee Camps*. [online] *JSTOR*. University of Pennsylvania Press. Available at: https://www.jstor.org/stable/j.ctt3fhtf4 [Accessed 24 Apr. 2023].

systems and procedures which generate a sense of legality or not, for the Tibetan exile community and local and State actors involved.

A comparative study on Tibetan exile communities in three local contexts (Ladakh, Darjeeling and Dharamshala) though may be contextually (socio-political interactions, socio-economic assistances, institutional engagements, independent activities/ lifestyles, geographical access or restraints etc.) unique and incomparable, yet, uncovers resemblances and thematic similarities among the Tibetan exile communities, in a manner that makes them an ideal case study, individually (within their local context) as well as comparatively (comparing Tibetans living in Ladakh, Darjeeling and Dharamshala), for understanding how the law can shape the lives of refugees and how refugees work the law. An important element for conducting an ethnographic study is selection of locations, participants, times, and events related to the area of research. Previous literature states that a place, setting, environment to conduct the research may be chosen because they are a representation of other settings or the participant group or because they are atypical (which have not been studies in depth before) or they are accessible. Choosing a site is a balance between representativeness, uniqueness, and accessibility.[264] In the present study, each site produces a series of negotiations for the Tibetan community, as they assimilate within the host community, whilst restructuring their identity and seeking opportunities to earn a livelihood. While scholars from various disciplines have previously conducted studies in these settings individually and collectively, however the present thesis, due to its distinct combination of a socio-legal ethnographic methodological approach, provides innovative insights into refugee-host dynamics.[265]

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[264] Rose, G. (1997). Situating knowledges: positionality, reflexivities and other tactics. *Progress in Human Geography*, 21(3), pp.305–320. Available at: https://doi.org/10.1191/030913297673302122.

[265] Fisher, J.F. (1978). *Himalayan Anthropology The Indo-Tibetan Interface*. Berlin, New York De Gruyter Mouton. Saklani, G. (1978). Tibetan Refugees in India : A Sociological Study of an Uprooted Community. *The Tibet Journal*, [online] 3(4), pp.41–46. Available at: https://www.jstor.org/stable/43299920.]. Palakshappa, T. C. (1978) Tibetans in India: A Case Study of Mundgod Tibetans, New Delhi. Subba, T.B. (1988). Social Adaptation of the Tibetan Refugees in the Darjeeling-Sikkim Himalayas. *The Tibet Journal*, [online] 13(3), pp.49–57. Available at: https://www.jstor.org/stable/43301058 ["Accessed 24 Apr. 2023Goldstein, M.C. and Kapstein, M. (1999). *Buddhism in contemporary Tibet : religious revival and cultural identity*. Delhi: Motilal Banarsidass Publishers.. Basu, S. (2018). *In diasporic lands : Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan. Jolden", T. and Tundup, R. (2018). Cultural Relationship between the

Ethnography as a method evolves in design as the study progresses. This requires regularly interacting with people as part of their daily lives, including taking part in observations, participating in casual and structured conversations, collecting documents and data, and analyzing the topics of inquiry while appreciating the complexity of human existence.[266] An ethnographic study requires the use of tools such as participant observation and semi-structured, qualitative interviews with open-ended questions to obtain the most comprehensive feedback from the sample group.[267] Utilizing visuals, images, clips, maps, and documents (historical timelines) assist in gaining an understanding of the participants' experiences or the occurrences related to the field of study.

Generally, a sample in social science research is selected from a broader set in a way that ensures some representativeness. Qualitative research does not necessarily involve a precise language of sampling, yet in order to have a broader relevance of the proposed research, it is essential to decide who to study, where, when and what. Ethnographic study can be informed by context, environment, people and time. Sometimes the research questions determine the variable to categorize, also, selection of tools and methods to conduct the study guides the sampling strategy.[268] Selecting a sample of participants may be based on the setting or environment and the tools to conduct the study, like during interviews, participants may recommend other significant people, which lead to snowballing of sample, thus covering a better range of responses.[269] Also, Hammersley and Atkinson in Ethnography: Principles and Practices, have suggested that a researcher should categorize and classify the sample

People of Ladakh and Tibet. *The Tibet Journal*, [online] 43(2), pp.65–71. Available at: https://www.jstor.org/stable/26634918.

[266] Gibbons, J.A., Hammersley, M. and Atkinson, P. (1986). Ethnography: Principles in Practice. *Contemporary Sociology*, 15(3), p.451. doi: https://doi.org/10.2307/2070079.

[267]Creswell, J.W. (2013). *Qualitative Inquiry and Research Design: Choosing among Five Traditions*. 3rd ed. Thousand Oaks: Sage. Available at: http://www.ceil-conicet.gov.ar/wp-content/uploads/2018/04/CRESWELLQualitative-Inquary-and-Research-Design-Creswell.pdf. Flick, U. (2018). *Introduction To Qualitative Research.* 6th ed. London: Sage. Available at: https://elearning.shisu.edu.cn/pluginfile.php/35310/mod_resource/content/2/Research-Intro-Flick.pdf..

[268] Anderson, L. (2006). Analytic Autoethnography. *Journal of Contemporary Ethnography*, [online] 35(4), pp.373–395. doi: https://doi.org/10.1177/0891241605280449.

[269] Small, M.L. (2009). `How many cases do I need?'. *Ethnography*, 10(1), pp.5–38. doi: https://doi.org/10.1177/1466138108099586.

(participants) according to the variables best suited to get maximum information from them.[270] It could be on age, gender, employment, nationality or any other factor which would get a diverse set of results removing any scope of biasness and, also, help to develop a strategy for data analysis. Common sampling strategies used for sampling while conducting an ethnographic study are purposive[271], theoretical,[272] snowball[273] and convenience sampling. The primary responsibility of the researcher to draw conclusions and analysis of the research study is to select a sample and site for conducting an ethnographic study which accurately reflects the area of research and the issues of the group/communities whilst also taking into account wider concerns beyond the sample.

Present research study provides an in-depth and interpreted understanding of the Tibetan exile community in 3 distinct local settings of Ladakh, Darjeeling and Dharamshala, by conducting qualitative, formal and informal semi- structured interviews. The semi- structured approach was chosen so an to gain uninterrupted and detailed information about their social, cultural and political circumstances, perspectives and histories within the structures of institutions, laws, regulation. [274] The interview series is designed/ constructed to unearth pieces of fresh information and themes the literature has failed to address, w.r.t. political, social and moral

[270] Gibbons, J.A., Hammersley, M. and Atkinson, P. (1986). Ethnography: Principles in Practice. *Contemporary Sociology*, 15(3), p.451. doi: https://doi.org/10.2307/2070079.

[271] Purposive sampling involves selecting a sample with a specific goal in mind, such as accessing persons, times, settings, or experiences that are typical of certain criteria. It is more commonly used in policy research. See Generally, Ritchie, J. and Lewis, J. (2003). *Qualitative research practice : A guide for social science students and research*. London: Sage.

[272] Theoretical Sample is chosen to develop and improve theory: persons, settings, times, and situations are used to provide theoretical explanations and limitations, as well as to refute or restructure any current theory. See, Charmaz, K. (2014). *Constructing grounded theory*. 2nd ed. London: Sage.

[273] It is sampling strategy to merely generate a sample. Here initial contacts are used to create further contacts and the study proceeds. See, Flick, U. (2018). *Introduction To Qualitative Research.* 6th ed. London: Sage. Available at: https://elearning.shisu.edu.cn/pluginfile.php/35310/mod_resource/content/2/Research-Intro-Flick.pdf.

[274] Similar approach has been taken by scholars undertaking a comparative ethnographic case study on refugees. See generally, Peteet, J. (2005). *Landscape of Hope and Despair: Palestinian Refugee Camps*. [online] *JSTOR*. University of Pennsylvania Press. Available at: https://www.jstor.org/stable/j.ctt3fhtf4 [Accessed 24 Apr. 2023]. Banakar, R. and Travers, M. (2005). *Introduction to Theory and Method in Socio-Legal Research*. [online] papers.ssrn.com. Available at: http://ssrn.com/abstract=1511112 [Accessed 24 Apr. 2023]. Flood, J. (2006). *Socio-Legal Ethnography*. [online] papers.ssrn.com. Available at: https://ssrn.com/abstract=949887 . Chatty, D. (2007). Researching Refugee Youth in the Middle East: Reflections on the Importance of Comparative Research. *Journal of Refugee Studies*, 20(2), pp.265–280. doi: https://doi.org/10.1093/jrs/fem005

predicaments of Tibetans within the domain of naturalization prospects in India, vis-à-vis the risk of forsaking their 'identity', 'nationality' and 'sense of belongingness'. It is important to remember the choice of ethnographic and comparative case study methods in three different settings (Ladakh, Darjeeling and Dharamshala) is driven by the realization that other legal scholars have already examined the general insights that one can derive from studying refugee law from a top-down approach, at abstract levels and on an "all-India" basis. The specific focus on the socio-legal dimensions of Tibetan exile community lives in their local settings, on the contrary, promises new and original insights through ethnographic methods, qualitative interviews and thick description of local contexts. Such a bottom-up approach still holds potential for generalization, as this thesis plans to re-conceptualize the specificity of some ethnographic insights through the prism of law reform in general and will identify which of the lessons learnt can play a role for domestic law reform debates (National Asylum Bill, 2015) or even global refugee regime debates (Global Compact on Refugees), thereby, hoping to contribute to the socio-legal realities of refugee interaction by learning from Tibetan exile groups in a state of limbo.

3.3.5 ENCOUNTERING THE FIELD

i) Pilot Study on Tibetan Exile Community in Ladakh

Mike Crang and Ian Cook (2007) view a general gathering stage or 'casting your net' theoretically as well as practically, as the first step of conducting ethnographic research. Acquiring information, forming research and possible connections, debating topics and fields of inquiry with pertinent groups, communities, organizations, government representatives etc. through a short trial would be advantageous in constructing and designing the research.[275] In order to conduct an ethnographic research, it is essential to become knowledgeable about the subject from different sources, build a connection with major contacts to assist in tackling

[275] Crang, M. and Cook, I. (1995). *Doing ethnographies*. [online] Geobooks. Available at: https://dro.dur.ac.uk/202/1/202.pdf.

potential difficulties in the field, examine the feasibility of the research, and evaluate the researcher's preconceived notions.

A three-month ethnographic pilot study was conducted in Leh Ladakh Jammu, & Kashmir, at Sonamling Tibetan Refugee Settlement in May, June, and July 2018, that revealed promising results already. The pilot study was implemented to probe the area, build relationships with the settlement people, and most significantly, determine the possibility of carrying out further research. This study included a sample size of 28 Tibetans who were born in Leh or whose parents travelled from Tibet via Changthang region and settled in Leh. Using purposeful criteria and snowball sampling methods, the sample size was determined, and the participants were categorized according to age, length of residence in Leh, and employment status (self-employed or employed by the Central Tibetan Administration). On site, semi- structured interviews were conducted with each participant to get maximum input and information from them in their natural setting. Conducting on site interviews also helped to make purposeful observations of their surrounding environment and interactions with family members or co- workers.

The study helped to understand how existing Indian refugee legislation worked in practice and with specific reference to the legal position of Tibetans in Ladakh, resettlement and rehabilitation help given by the GoI - as well as peculiar legal hurdles faced at the State level. The findings of the pilot study propose that access to fundamental resources and entitlements varies depending on the degree of uncertainty in legal status as refugees or foreigners, and there is a disparity in the protection of basic and socio-economic rights due to the unequal enforcement of policies and legislation by the Indian Government. In addition, the pilot study highlighted the difficulties and inner conflicts experienced by Tibetans when considering the Indian citizenship option that was viewed in the refugee community as both a path to a better life for them and upcoming generations, yet also perceived as a betrayal of Tibetan identity and “diaspora-return-politics”. Finally, the pilot study reassures the study of the wider implications of Tibetan experiences against the background of changing narratives of refugee governance in India.

3.4 DATA COLLECTION AND ANALYSIS

3.4.1 SAMPLING STRATEGY

In the current study of Tibetan exile population in India, informants were chosen using a combination of "convenience" and "snowball sampling" approaches. Using convenience sampling for research on Tibetans, particularly in Dharamshala and Darjeeling, was challenging since most Tibetans have settled among host populations in a clustered scattered pattern. Alternatively, convenience sampling to study Tibetans in Ladakh was a success since the Tibetan rehabilitation settlement was easily accessible. Due to the mobility and preoccupations of self-settled refugees in Darjeeling and Dharamshala town, it was necessary to utilize key informants in order to secure interviewees. However, when arriving in Ladakh, it was possible to quickly form relationships with the settlement inhabitants and use snowball sampling. Subsequently, interpersonal connections with essential sources of information and their contacts were established gradually through a process of accumulating cases called the "snowball sample." Most refugee researchers rely on “snowball” sampling approaches to overcome the access problem. This study made use of snowball sampling, specifically in Darjeeling, and contacted the local Tibetan settlement office for both guidance and resources to identify and contact possible research participants in the community. This primary collection of participants is then questioned and requested to suggest further individuals who would be open to being interviewed, resulting in the "snowball" selection. A snowball sample selects from a particular subset of the population and is more likely to have comparable characteristics than a random sample, in which every member of the target population has an equal chance of being picked. Therefore, there is a significant chance that a snowball sample technique will result in a biased sample.[276] A semi-structured interview schedule comprising a list of questions and themes was used to conduct interviews with Tibetans.[277] The interview process was crafted in a way to take advantage of the interviewees' familiarity with local issues and circumstances

[276] Atkinson, R. (2001). *Rowland Atkinson and John Flint*. [online] Available at: https://sru.soc.surrey.ac.uk/SRU33.PDF.

[277] Vitale, A. and Ryde, J. (2018). Conducting Individual Semi-Structured Interviews With Male Refugees on Their Mental Health and Integration. doi: https://doi.org/10.4135/9781526444431.

in their community, as well as their interactions with the CTA and local government. A broad framework of themes covered by the interview schedule which also form the key themes for data/narrative analysis are:

1. Level of awareness about their legal status in India
2. Access to socio-economic resources, benefits w.r.t. education, health care, employment given by the State and Central Tibetan Administration
3. Level of awareness about citizenship/ membership rights in India
4. Reasons- for accepting or refusing membership rights in India
5. Assistance and position of CTA w.r.t. Indian Citizenship (status of CTA in Indian context- governance and viability, legal empowerment, theme of access to resources) formal and informal workings of law.
6. Status as refugees (socio- economic, socio-political, cultural) within the local setting (Ladakh, Darjeeling and Dharamshala) vis-à-vis other places.
7. Spirit and essence of 'Tibetan Nationality' and 'Rootedness' and 'Sense of Belongingness' within the Tibetan exile community. Annexure A and B exhibit the Interview protocol and the Consent form.

Allowing the interviewee to answer questions in their own way, and taking into account their personal experiences and stories, was the strategy to understand the individual and community's situated knowledge. Open-ended questions and in-depth interviews meant the conversations were collected from what was last said by the interviewees. Probing as an interviewing technique helps the researcher to evaluate the response and rectify the inadequacies therein. It improvises the question and makes meaningful interjections to get relevant information from the participant. While conducting in-depth interviews, it is common for research participants to drift away from the research theme and give a more detailed account of related topics that are noted in the field notes and observations. In the present study, interviewees were appropriately redirected and probed when they appeared to be digressing from the context. Respondents' own

statements were modified into contextual relevance to derive maximum information related to the research questions and themes.[278]

To accurately capture the experience of refugees, interviews had to take place in their homes, workplaces, or camps. This also allowed for meaningful field observations, informal conversations with family members or colleagues, and the development of relationships in the field. The participants were made aware of the anonymity and confidentiality of the data they provided prior to the interview, and their explicit and informed consent was taken before the interview began. Additionally, the purpose of the study was explained in full detail. The interview period varied from 45 minutes to 1 hour, which gave us enough time to get comprehensive data. (We conducted the interviews during work hours or while doing household tasks). Additionally, the participants were informed that any follow-up interviews, if needed, would have to be carried out and they accepted. Prior to being given permission to carry out the interviews, it was stipulated that no recording devices be used, only hand-written notes taken, and the settlement authority had no objections to the interviewers moving around the camp settlement, school, primary health care unit, and talking to the camp residents. 59 Tibetan exiles were part of the sample size, from three settlements: Ladakh with 25, Dharamshala with 22, and Darjeeling with 12. This group was comprised of 1st, 2nd, and 3rd generation males and females, aged between 25 and 65. This sample included people living in the camp who were self-employed, as well as CTA officials.

[278] Bhatia, R. and Wallace, P. (2007). Experiences of refugees and asylum seekers in general practice: a qualitative study. *BMC Family Practice*, 8(1). doi: https://doi.org/10.1186/1471-2296-8-48 Vitale, A. and Ryde, J. (2018). Conducting Individual Semi-Structured Interviews With Male Refugees on Their Mental Health and Integration. doi: https://doi.org/10.4135/9781526444431.

Table 3.1. Characteristics of Sample Size

Gender	Female	Male							
	27	32							
Age	18- 24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64
	nil	14	6	14	5	1	5	5	9
Arrival in India	1959- 1979	1980- 1993	1994-1999	2000- present day					
	7	4		2					
Place of Birth	Tibet	India	other						
	13	45	1						
Level of Education	Senior Secondary	Higher Secondary	Graduate	Post Graduate	Uncertain				
	8	12	25	11	3				
Occupation	Central Tibetan Administration	Sweater Business	TCV- Tibetan NGO	Primary Health Care (CTA)	Private/ Tourism	Indian Govt.	Unemployed		
	26	8	8	6	6	2	nil		
Place of Residence	Ladakh	Dharamshala	Darjeeling						
	25	22	12						
Legal Status	Tibetan Refugees	Indian Citizens	Family Member taken Indian citizenship	Family member/ self migrated/ settled abroad	self- apply for Indian citizenship but cannot				
	55	4	5	7	7				

3.4.2 ROLE AS A RESEARCHER IN THE FIELD- REFLEXIVITY AND ETHICAL COMMITMENTS

In an ethnographic study, the researcher encounters two sites- ‘the field’ and ‘home’. The spatial separation between them is manifested through their contextual understanding. ‘Field’ is the site where data is collected, field notes are written; closer to experience, textually fragmented and raw documentation of interviews, observations, and spontaneous reactions.[279] In the other site, 'home', reflective writing is done, as well as theoretical conversations and polishing, inter-textual and textual writing, analyzing data collected in the field, and writing field reports. The ‘field’ enables a researcher to gain certain forms of knowledge and experience firsthand, which is essential for an ethnographic study, especially. A researcher conducting research with refugees should abide by ethical virtues like respect, empathy, openness, impartiality, and

[279] Gupta, A. and Ferguson, J. eds., (1977). *Anthropological Locations*. University of California Press. doi: https://doi.org/10.1525/9780520342392.

reliability.[280] Establishing an amicable connection with the research participants, while staying unbiased as a researcher in the field is essential to adequately reflect the views of each research participant, as well as to decrease any power dynamics between the interviewer and the interviewee.[281]

A significant element that needs to be stated here is my standpoint, assumptions and reflexivity, while undertaking this qualitative study. Even though as a researcher I may have certain preconceived notions about the research, it is important to point out these shortcomings and discrepancies for a better understanding of the research group, without overshadowing the views and information given by the participants of the interview. According to my situated knowledge, offering membership/ citizenship rights to refugees in general or Tibetans is a way of acknowledging the right of every human being to have rights. Citizenship to the stateless not only provides them with material privileges and entitlements but also gives them recognition as equal members of a polity. This view may or may not hold good with the Tibetans, as they are a very close-knit community with a primary goal of preserving their Tibetan Nationality-identity.

Second, as a citizen/ member of a polity, I feel the importance or the need to have rights without having to sacrifice anything. Also, there are no procedural, documenting, bureaucratic hiccups that I must deal in establishing my claims and rights. Even though I recognize that the Tibetan exile communites are confronted with unavoidable bureaucratic delays because of their status, what I'm trying to understand from the interviews is the significance of choosing membership rights and benefits over protecting their identity and sense of belonging as a community. At last, I grasp that individual from the three various settings, Ladakh, Darjeeling and Dharamshala, experience or may have experienced such discourse and choices while living

[280] FINE, G.A. (1993). TEN LIES OF ETHNOGRAPHY. *Journal of Contemporary Ethnography*, 22(3), pp.267–294. doi: https://doi.org/10.1177/089124193022003001.
[281] Mackenzie, C., McDowell, C. and Pittaway, E. (2007). Beyond 'Do No Harm': The Challenge of Constructing Ethical Relationships in Refugee Research. *Journal of Refugee Studies*, 20(2), pp.299–319. doi: https://doi.org/10.1093/jrs/fem008.

amidst their kin, and any data given by them would be valuable to help me lead a further examination concerning the issues.

3.4.3 INTERPRETATION OF IN- DEPTH INTERVIEWS THROUGH THEMATIC ANALYSIS[282]

Thematic analysis is a technique for detecting, analyzing, as well as reporting patterns or frequently occurring themes in data. Examining a data set, such as interviews or focus group transcripts, to identify trends, compile information, and aid in understanding different features of the research topic. Thematic analysis is a popular analytic tool for analyzing qualitative data that is both accessible and theoretically versatile.[283] Although scholars have viewed thematic analysis as a tool that can be applied to a variety of data analysis methods, including grounded theory, narrative analysis, and discourse analysis, Braun and Clarke argue that thematic analysis should be viewed as a method in and of itself, due to its flexibility in theoretical and epistemological approaches. [284] It demonstrates to be a versatile and valuable research instrument capable of providing a comprehensive, extensive, and complicated description of data without adhering to any pre-existing theoretical framework. As a result, the goal of applying Thematic Analysis in qualitative research is to connect comparable codes to themes in order to give a full representation of significance in an organized and thorough manner while

[282] Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), pp.77–101. http://dx.doi.org/10.1191/1478088706qp063oa. See Generally, https://study.sagepub.com/thematicanalysis/student-resources/chapter-4/understanding-the-process.

[283] Roulston, K. (2001). Data analysis and 'theorizing as ideology'. *Qualitative Research*, 1(3), pp.279–302. doi: https://doi.org/10.1177/146879410100100302.

[284]Holloway, I. and Todres, L. (2003). The Status of Method: Flexibility, Consistency and Coherence. *Qualitative Research*, [online] 3(3), pp.345–357. doi: https://doi.org/10.1177/1468794103033004 Ryan, G.W. and Bernard, H.R. (2003). Techniques to Identify Themes. *Field Methods*, [online] 15(1), pp.85–109. doi: https://doi.org/10.1177/1525822X02239569 Understanding the experiences of asylum seekers. *International Journal of Migration Health and Social Care*, [online] 10(4), pp.207–219. doi: https://doi.org/10.1108/IJMHSC-06-2013-0016. Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), pp.77–101. http://dx.doi.org/10.1191/1478088706qp063oa

maintaining objectivity.[285] I conducted a manual analysis of the transcripts of the interviews using Braun & Clarke's six-phase thematic analysis methodology.[286] Here are the specific steps:

i) Transcribing and getting acquainted with the data

I familiarized myself thoroughly with the data and prepared edited transcriptions of all participant interviews. It is important to note that all interviews were written down word-for-word rather than being audio recorded, as this was necessary condition to interview Tibetan exiles, which were subsequently edited to improve readability and clarity. Each participant was identified with a pseudonym to protect anonymity and confidentiality. To verify accuracy, the modified transcripts of the data were cross-checked with the original interviews.

ii) Creating preliminary codes

After becoming conversant with the data, the following step in the process of analysis is encoding. Careful examination of the transcripts was conducted, evaluating their relevance to the research questions and the entire section was labelled with a phrase or word that summarized the transcribed statement or paragraph. Unusual terminology was annotated on the side of the document. This phase was concluded by gathering all the codes and data extracts.

[285] Ryan, G.W. and Bernard, H.R. (2003). Techniques to Identify Themes. *Field Methods*, [online] 15(1), pp.85–109. doi: https://doi.org/10.1177/1525822X02239569 Understanding the experiences of asylum seekers. *International Journal of Migration Health and Social Care*, [online] 10(4), pp.207–219. doi: https://doi.org/10.1108/IJMHSC-06-2013-0016. Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), pp.77–101. http://dx.doi.org/10.1191/1478088706qp063oa.

[286] Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), pp.77–101. http://dx.doi.org/10.1191/1478088706qp063oa.

iii) Identifying themes

The themes captured vital data relevant to the research questions, displaying a certain magnitude of structured response, or significance found in the data.[287] I highlighted recurrent words and codes that had common attributes and organized them into groups to enable themes to appear. Two columns were constructed: the left one comprising of the initial interview questions and the right one containing the responses or codes obtained from each individual interview. The next step was to create two columns with the left column containing the themes and the right column containing the codes.

iv) Assessing Themes

This step necessitated verifying that the themes were applicable to the coded extracts and the entire set of data. I examined whether the themes created a convincing and powerful narrative of the data and determined the character of every theme and the interconnections between them. As part of the process, I assessed the themes, blended two themes and eliminated some themes.

v) Labeling the themes

Upon completing the review of themes, each one was evaluated by recognizing its core and formulating a descriptive and informative title. During this phase, the codes were accurately divided into themes and the themes were named. The narrative was recorded in the written account which showed how it correlated to the broader context of the analysis.

[287] Ryan, G.W. and Bernard, H.R. (2003). Techniques to Identify Themes. *Field Methods*, [online] 15(1), pp.85–109. doi: https://doi.org/10.1177/1525822X02239569. Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), pp.77–101. http://dx.doi.org/10.1191/1478088706qp063oa.

6. Constructing the Analysis Report

I eventually concluded the process by forming a report that incorporated the analytical narrative and data extracts to demonstrate a persuasive and logical story about the data, correlating it to existing literature. The discussion yields a brief, understandable narrative. Illustrative examples were used to demonstrate, reinforce, and authenticate the conclusions.

The examination of the data gathered from the interviews created 3 major categories and 6 subordinate categories. These themes were identified manually. I constructed two sections: the first section included the initial interview questions while the second section included the codes or answers that were derived from each respondent's answer.

Table 3.2 Code classification

Original interview question	Codes/ responses
Legal Status of Tibetans in India, Awareness about Indian citizenship, eligibility, and willing to apply	Complicated paperwork, unclear procedure, limited jobs, better living standards, travelling abroad, baksheesh (bribe), no support from community and CTA, restrictions, doubtful, confused, refusal to take Indian citizenship, live within community, surrender Tibetan nationality, Indian document RC, Tibetan document Green Book, give up being Tibetans, support Tibetan cause, content living, fear being ousted by Tibetan community, not eligible, expectations, some Tibetans left out, no uniformity, too much at stake, lack of awareness

	not much benefit, Tibetan refugees, foreigner status, give back to Tibetan community, Indian citizenship to get jobs and passport to travel abroad, born in India, Tibetan roots, renew RC regularly, young people aware, young Tibetan willing to take Indian citizenship, no legal refugees status, Tibetan national
Access to socio- economic rights made available by TGiE and Indian Government (Center and State)	Basic facilities, school, hospital, handicraft shops, Tibetan refugee market, housing in camps around settlement, Aadhaar card, CTA helpful, implementation of TRP, no uniformity, no permanent Govt. jobs, limited jobs, no choice, complicated paperwork, GoI helpful but temporary, discrimination in jobs, hardworking, employment for youth problem, status quo since years, not much improvement, self sufficient, independent, private business, informal sector, sweater business, taxi driver, no financial loan help, cannot open bank accounts, J&K different rules, restrictions in travel agency, no property ownership, rent is not uniform, baksheesh, local authority discrimination
Inclusion or Exclusion as Outsiders/ refugees by host population	Respect local people, live peacefully, keep going, build friendships, local integration, understanding, patience, adaptation, hard work, support of family and friends, believe in HHDL vision, faith in culture and religion, staying with

	Tibetan community, local friends and relations outside Tibetan community, co-existing, feel safe, overcome challenges united
Preserving Tibetan identity, culture and traditions, sense of belongingness and rootedness	Integrated, heart and soul Tibetan, roots in Tibet, responsibility, preserve identity, culture, Tibetan cause, unselfish for greater cause, powerful sense of belongingness, community strength, feeling of family and home, fight for homeland, sense of security, united, together, support each other, go back to Tibet, hope of going back to Tibet, hard work, traditions, religion, protect, extinct, preserve history and tibetaness, not take Indian citizenship, personal choice, young Tibetans choose better living, duty towards elder, Support CTA, strong stand, human rights, right to go back to homeland, Tibetan nationality, confused, deserve better life, practical solution, encourage membership rights, more socio- economic rights, stable life, focus on Tibetan cause, different opinion of elder and youth,
Role of TGiE and GoI to provide membership rights and socio- economic rights	No direct involvement of CTA, discouraging, undercurrent, neutral, no support, personal choice of individual, Tibetan Charter in Exile, dual citizenship, not applicable for Indian citizenship, support citizenship of other countries, lot of restrictions, uncertainty of legal

	status, complex issue, negative effect on Tibetan youth, migrating abroad leaving India, uniform implementation of laws, more job opportunities, public sector permanent jobs, concrete legal status, uniform refugee law, welfare- admission management of refugees, informed decision, keep Tibetan youth in India for cause, CTA fears Tibetans will scatter and Tibetan cause will die, giving up identity for jobs, CTA and Indian gov work hand in hand
Future of legal status of Tibetan community in India, Middle Way Approach and returning to Tibet	Uniform refugee law, concrete legal status as refugees, proper documentation, uniformity of socio- economic benefits, state Govt and local Govt. support, hope to go back, faith in HHDL Umaylam- Middle Way Approach, GoI take strong stand to support Tibetans, recognize CTA as official Govt of Tibetans in Exile, strong political will and support, create awareness about Tibetan cause in India, reach beyond Tibetan community, implementation of TRP, firm policy towards Tibetans, open to change, progressive ideas for Tibetan community, future of 2nd and 3nd generation Tibetans, grateful.

In the next step, a table was constructed with two columns, the left column containing themes, the middle column encompassing sub themes and the right column including quotes or extracts from the interviewees substantiating the themes. I created 3 main themes: 1) Adversities and

coping mechanisms during resettlement experience; 2) Preservation, Integration and Pragmatics of Diasporic Identity; 3) Tibetan Nationality vs Indian Citizenship- State of Limbo.

Table 3.3. Evolving themes from codes

Themes	Sub themes	Excerpts
Adversities and Coping mechanisms during resettlement experience	Financial and employment-based problems	"There are no permanent jobs for Tibetan youth, even when they are graduate and postgraduate, getting jobs is difficult, no public sector jobs"
	Asymmetric policies/ laws/ regulations	"Here in Leh there are lot of restrictions on jobs- we cannot take bank loans, cannot do tourism business, cannot own taxi- car"
	Government/ Institutional support	"TRP 2014 is not implemented in all Tibetan settlements, not here in Leh, other settlements have implemented like Dharamshala and Bylakuppe because State Govt. did."
	Community support and Self Reliance	"Some facilities are there with help of CTA but sometimes there is no one

	Faith	regular way… there is different rule for everyone what local Govt. feel right." "I have to renew RC every year but some of us who came earlier have to renew in 5 years, the paperwork is difficult sometimes." "CTA provides with jobs, school, primary health care center to most of us and also help in setting up small handicraft and sweater shops." "GoI. had given us home and land but there is no uniformity in rules or policies. I feel every day is new day new challenge" "As a Tibetan community we help and support each other and stay united that is why we survive for so long." "I have faith in His Holiness Dalai Lama, he says to live peacefully and stay united

		and one day we will go back to our homeland."
Preservation, Assimilation and Tibetan Exilic Identity	Traditions and Culture Tibetan identity and roots Sense of Belongingness Survival and Way forward Local Integration	"I feel responsible to protect and preserve my traditions and culture, that is all that is left of us Tibetans" "My heart and soul belong to my Tibetan identity and Tibetan cause or movement to go back to our homeland, I will always be loyal to that" "There is a powerful sense of belongingness in our community, and it will be diluted if we take Indian citizenship" "I think we have to be open to a practical solution for the Tibetan youth who want better standard of living and continue to be important part of the Tibetan movement, as young Tibetans we understand our responsibility, but we also

		want a comfortable life and don't mind taking Indian citizenship" "I was born in India, my parents were born in India too, I call India as my motherland, I have so many school and college friends, I feel attached to the local people here in Dharamshala"
Tibetan Nationality vs Indian Citizenship- State of Limbo	Better job opportunities and living Travel/ study abroad Older generation vs younger generation	"I think younger generation like me deserve to have good jobs and living standards and for that we should be encouraged to take membership rights or Indian Citizenship." "Most of Tibetan youth is taking Indian passport to travel and settle abroad or to study abroad, because they see better opportunity there

	Exclusion	than living in India with no change, also the IC we have is not recognized by many countries as a travel document now.”
	No support from CTA	“I think we as younger generation have responsibility towards Tibetan movement but also we deserve a better life and better jobs so the CTA and older people in our community should support us if we want to take Indian citizenship”
	Fear of being ousted from community	“Older generation have different point of view and want to protect Tibetan identity over choosing a better life. They have loved their life but we have to see our future also.”
		“Some of us 2nd and 3rd generation Tibetans are not eligible to apply for Indian passport/ citizenship even

	Moving Diaspora- Migration abroad	when we are born in India, our position is stuck, Indian law has made age restrictions and have conditions, so lot of young students like me have no option." "CTA is neutral and there is no direct support if we want to take Indian passport, it is on the person only. No special information or support, I just know that we have to give up RC and IC and Green Book which is our Tibetan identity and may be not stay in settlement also." "Older generation people in community do not like if young Tibetans give up Tibetan identity. They say we are not loyal and are selfish, most of us are scared that we cannot stay in our community with our people if we take Indian passport." "I feel youth like me are

	Tibetan Movement	going abroad for better chance and study, I feel in India Tibetan status will be same and not change, there is no refugee law also, so for better jobs and life young Tibetans are moving west." "My husband and I feel if we take Indian citizenship, we will be not loyal to Tibetan cause, fighting to go to our home in Tibet." "Being part of Tibetan movement is our identity but as youth with ambitions I also want a better life and better working opportunities which I can get by taking Indian citizenship."

Findings and analysis of the data will be dealt with in the coming chapters.

CHAPTER- 4

EXPERIENCE OF THE FIELD: TIBETAN SETTLEMENTS IN LEH, DHARAMSHALA AND DARJEELING

ABSTRACT

In the present thesis chapter, I provide an extensive account of the three field sites—Leh (Ladakh), Dharamshala, and Darjeeling. This includes a detailed exploration of the geographical, institutional, and local context of the Tibetan settlements. Additionally, I incorporate pertinent excerpts from interviews and conversations held with Tibetan settlers, officials, and camp residents. As a researcher, I assumed the responsibilities of both an observer and a participant. Through active participation in interviews and casual conversations with Tibetans across the three sites, I gained substantial information. Nonetheless, it was the field notes I made while surveying public and private spaces used by both Tibetans and the host population that added context and significance to my interviews. Initially, establishing a rapport and building trust with the interview participants may have been challenging. However, my extended stay, frequent visits to common hangouts, and genuine interest in the community helped facilitate a smooth pathway for further interaction. From my personal experience, I can confidently state that each of the three sites possessed distinctive qualities. These qualities stemmed from factors such as their remote geographical locations, the dynamics between refugees and hosts, the varying levels of resource accessibility in relation to local and state government laws, differing opinions within the Tibetan community regarding generational gaps and individual aspirations, and the valuable insights shared by officials from the Central Tibetan Administration. Since ethnographies are ideally multi-site research studies, I believe that conducting interviews and research in Leh, Dharamshala, and Darjeeling has greatly enhanced my personal and academic knowledge and experience. Through an in-depth exploration of the Tibetan community's lived experiences, everyday challenges, and their aspirations and expectations from the Central Tibetan Administration and the Indian government, the

significance of my bottom-up study becomes evident. This is based on the actual conditions on the ground, rather than solely relying on existing literature about the Tibetan exile population in India and the policies implemented by the Indian government for their resettlement and rehabilitation spanning over six decades.

4.1 SONAMLING TIBETAN SETTLEMENT, CHOGLAMSAR LEH, UNION TERRITORY OF LADAKH

In the year 2018, I commenced my fieldwork in Leh (Ladakh) and contacted the secretary of the Chief Representative Officer (CRO) Sonamling Tibetan Settlement over the phone to receive authorization to interview the settlement residents. It would be apt to provide an ethnographic description of the settlement for better understanding. Sonamling Tibetan settlement Leh (Ladakh) was developed in 1969 with an initial population of 617 Tibetans.[288] Majority of them were nomads from the western part of Tibet bordering with Ladakh and fled in 1959 in the aftermath of Chinese occupation of Tibet. This settlement is situated at Leh, Union Territory of Ladakh, India, at the height of 3505 Mts. above sea level. The Indus River flows through the southern side of the settlement. Sonamling Tibetan settlement comprises 11 scattered villages.[289]

Each settlement is identified by a numerical code, with Camp No. 3 being the capital of the settlement as it is the site for all official activities and proceedings. TCV school, settlement office and co-operative society are also in this camp. The average distance between each settlement is 3-4 kms. The outer most village from camp no. 3 is over 14 kms, which makes accessibility to services difficult. Therefore, in each camp, a small dispensary, a creche, and a kindergarten facility have been established. Most of the families who have lived in this

[288] CTRC. (n.d.). *Sonamling, Ladakh*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/sonamling-ladakh/ [Accessed 23 Apr. 2022].
[289] CTRC. (n.d.). *Sonamling, Ladakh*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/sonamling-ladakh/ [Accessed 23 Apr. 2023].

community for a long time possess a small amount of land that they use for agricultural purposes. Due to the lack of irrigation systems, and the harsh conditions of the environment, agricultural production is not enough to sustain the Tibetans living in the settlement. Therefore, besides agriculture, most of the settlers are engaged in small restaurants, shopkeeping, and seasonal woolen business. The initial number of inhabitants in the settlement was estimated to be around 928 individuals and the population is now estimated at 6,000.[290] There is one high school (TCV) up to 10th grade and one pre- primary school, a primary health center with modern allopathic dispensary run by the Tibetan administration and a Tibetan Traditional Medical Center branch. This settlement has 3 monasteries in the area as well as a co-operative society that is registered as per the Indian Co-operative Societies Act of 1970.[291] The Co-operative Society offers livelihood opportunities to the inhabitants of the settlement, such as a carpet weaving center, art and craft center, and a retail store section. The Chief Representative officer (CRO) of the Department of Home, CTA, Dharamshala, is the highest authority in the settlement. The settlement office is tasked with monitoring the governance of both settlements in Ladakh. The CRO is the link between the settlement and the Department of Home (CTA) and is the principal provider of information for the people in the settlement. The CRO is also responsible for adjudicating disputes, interacting with group leaders (gopa) and local authorities, and overseeing the administration and wellbeing of the settlement inhabitants on a daily basis. The Local Tibetan Assembly at the settlement is elected every five years. This Local Tibetan Assembly convenes twice annually and can bring up inquiries and determine any matters pertinent to the settlement during the meeting.

In the mountain regions of Ladakh, India lies one of the remotest Tibetan refugee settlements with difficult terrain and climate conditions. For outsiders like me, it is difficult to identify between the local Ladakhi population and Tibetans because of their racial, linguistic, religious,

[290] CTRC. (n.d.). *Sonamling, Ladakh*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/sonamling-ladakh/ [Accessed 23 Apr. 2022].
[291] CTRC. (n.d.). *Sonamling, Ladakh*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/sonamling-ladakh/ [Accessed 23 Apr. 2022].

and cultural similarities. The Tibetan exile communities are scattered across numerous cities in India where they face various problems like climate conditioning, linguistic, racial, religion discriminations, etc. Nevertheless, the Tibetan population in Ladakh have the benefit of having similar religious, linguistic, literary and cultural backgrounds to the local people, which has contributed to the integration and acceptance of the Tibetan community in the area. The Tibetan exile population has been able to attain a level of social and economic rehabilitation largely due to the assistance of the Indian government and the former State government of J & K (now Union Territory of Ladakh). GoI not only leased them extensive stretches of land for settlement camps but also gave ownership of the land to the CTRC for agricultural purposes. In the Indian settlement camps, Tibetans have received rehabilitation mostly in three areas: agriculture, agro-based businesses, and carpet-weaving and handicrafts.[292] The settlement of Leh (Ladakh) is largely based on agriculture, however, due to unfavourable land and climate conditions, it has been difficult to sustain a livelihood solely through farming. Consequently, the Tibetan inhabitants have found alternative sources of income, such as tending livestock, small-scale trading, running restaurants, operating shops, and selling winter wool garments. Most Tibetans who are employed are typically owners of small stores, food stands and street vendors. There is a special Tibetan market located in Leh's main market, where all the stores are owned and operated by Tibetans on a rental basis. Compared to Changthang, where Tibetans are living a predominantly pastoral or seminomadic existence, the Leh settlement area (Choglamsar) offers more opportunities for business and education.

To this present day, the Tibetan settlement located in Ladakh remains one of the most remote and underdeveloped of all the Tibetan exiles. The inhabitants of the settlement are forced to endure a great deal of difficulty for their day-to-day living due to the unpaved roads, half-built houses, and lack of water within the camps, particularly during the cold winter months. The settlement camps are about 8-9 kms away from the main Leh market but have easy access through public transport just outside the settlement connected via the main highway road. At

[292] CTRC. (n.d.). *Sonamling, Ladakh*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/sonamling-ladakh/ [Accessed 23 Apr. 2022].

the entrance of the settlement gate are small provision shops, tea stalls run by a few Tibetan residents of the camp. Additionally, there exists a compound containing a main settlement office, CRO office, Primary Health Care unit, Co-operative society shop and a community hall for meetings of inhabitants. Further in the distance are two side roads, with the left one leading to the residential camp area and the right one leading to the school governed by the Tibetan Children Village (school aided by SOS). The school grounds encompass a Montessori section, nine dwellings for students, male and female, each with a warden or Mother, an assembly/prayer hall, classrooms, a middle school section, a computer lab, a library, a football field, and a basketball court. A new section for children with disability was also inaugurated recently within the school compound where trained healthcare workers and volunteers care for special children of all age groups, while their parents can go to work. The TCV (Tibetan Children's Village) school at Choglamsar has been setup since 1975 with facilities for childcare and education like the Children's Village at Dharamshala. Even though the Sonamling Tibetan settlement appears to be located in a remote and isolated region, with just basic resources for survival.

4.1.1 STAY AT LEH AND VISITING SONAMLING TIBETAN REFUGEE SETTLEMENT

During my fieldwork in Leh, I was staying at the army camp, which was around 7-8 kms away from the Tibetan Settlement in Choglamsar. I had easy access to the settlement by road (public transport). I would arrive in the morning and dedicate an average of 7-8 hours per day to exploring the camps, school, administrative block, and Tibetan market, as well as forming relationships with both the officials and residents. On my first day itself, the Chief Representative Officer of the settlement agreed to an interview with me. He was very responsive and forthcoming and understood the purpose of my research. His office assisted me with contacts to start my fieldwork, which instantly gave a much-needed boost to my interview conducting process. Through my discussion with the CRO and local Tibetans, I developed an

understanding of the significance of their participation in prior research projects. Most of the interviews were conducted in the settlement, in familiar locations such as private homes, office spaces, and shops, providing a sense of ease to the interviewees. Many of them took a break from their daily activities to partake in the interview. However, only a few of my interviewees thought it was best to continue their daily activities while also engaging in a conversation with me, which was quite intriguing as it demonstrates a certain level of familiarity and informal relationship between myself as the interviewer and them as the interviewee. While visiting the field site, conversations with Tibetans at Sonamling Tibetan settlement, Tibetan market and Leh market, I found certain central themes amongst the Tibetan Diaspora; such as their desire for better and stable jobs, lack of implementation of Tibetan Rehabilitation Policy 2014 by State Govt. of Jammu & Kashmir, sense of pride and protection towards their cultural-religious roots and Tibetan identity, migration of the Tibetan youth to Western countries, opportunity for the 2nd and 3rd generation Tibetans born in India to apply for citizenship and become formal members of the Indian diaspora, lacking procedural awareness and support from the CTA to take up Indian Citizenship.

It became apparent to me during my stay in Leh how cut-off the area was, as well as its unfavourable geographical location, adversely affecting an individual's health from the high elevation and the cold winter, and also economically, as the livelihoods are largely dependent on the season (tourists and the weather). For some Tibetan residents who have stable business (small shopkeepers) and jobs (the Settlement office) sustaining through off season (winters) did not seem to be a problem. However, for those Tibetans who only depend on seasonal business, earning a decent livelihood during winter season is rather difficult as agriculture is not an option and those who have sweater selling business, due to lack of tourists, cannot make a comfortable earning. Hence, seasonal migration is a common phenomenon amongst the Tibetan exile community. Through speaking with a few shopkeepers at the Tibetan refugee market, I learned that most of them close their business and travel to other cities such as Dehradun, Delhi, and Jaipur during the winter in order to make a decent income and avoid the harsh weather of Leh. They mentioned that even traveling in India is not a problem till the time they have a valid RC

to show in case required. My observation leads me to believe that those who leave Leh during winter endure an incredibly difficult life, and in their own words, it is almost like hibernation. I observed that houses in the Tibetan camps were not well built, structurally or aptly equipped to cater to the needs of old residents, especially during winter. When inquiring several participants as to what their strategies were for managing the winter season, they delivered a general response, indicating a hopeless expression of uncertainty. Several of them voiced their reluctance in expressing their ideas of how their lives could be improved through access to resources and more economic opportunities in winter, whether from the local/ state government or the Tibetan government.

I observed that the CTA and the GoI had been successful in garnering the approval of the Tibetan inhabitants, however, my travels around the camps revealed there was a great potential for enhancing their living conditions given the location of the settlement. The unpaved and dusty roads, intermittent water supply, inadequate storage for winter, lack of electricity, and wooden houses that were not well-insulated against the elements were additional hardships that the community had to endure because of the lack of job opportunities. Several interviewees expressed optimism regarding the Indian government's 2014 Tibetan Rehabilitation Policy, which was created to benefit Tibetans across the country. However, it should be noted that numerous states, such as the former state of Jammu & Kashmir, have yet to prioritize the implementation of the policy. Even after Ladakh's new status as a Union territory, implementation of the Tibetan Rehabilitation Policy 2014 appears to be an unlikely reality.

4.1.2 LIFE IN SONAMLING TIBETAN SETTLEMENT: EXPERIENCES OF 1ST GENERATION TIBETAN

I had a conversation with a 62-year-old first-generation Tibetan who was born in Tibet and raised in the Sonamling Tibetan Settlement in Leh, who presently has the appointment of a camp leader. I met him at a small tea shop in camp no. 3. When inquired about his life in the

settlement and the transformations since he came, he answered, *"A lot has changed, better facilities at camp are there, given the CTA, school, health care, documents, Indian government is helpful. But sometimes good jobs and getting permanent work is problem. There is no fixed life and we get no bank loan with RC. It is very difficult to do business or open shop because we need little bank loan help to start business. Tibetan youth do not get government permanent jobs and they are very educated, most of them but no employment, which is problem. Most of Tibetan youth work in CTA but salary is less"*.[293] For him, everyday living at the settlement has become convenient compared to when he arrived here with his parents as a child. However, due to the secluded placement of the settlement, and the local state government limiting accessibility to permanent job opportunities, opening bank accounts, applying for loans, and the ability to open a tourism/taxi service agency (Ladakh is a much sought after vacation destination, mainly in the summer months, and is the leading source of income for the Ladakhi population), attaining a reasonable quality of life with a consistent income is still a daily battle. He expressed his gratitude and admiration for the extensive assistance the Indian government has been providing the Tibetan community for numerous years. Despite having a satisfactory life, his hopes for his children like better job chances, a higher standard of living, access to basic facilities, and changes to the Indian government's policies towards the "Tibetan community" and their wishes to return to Tibet remain unfulfilled.

4.1.3 EXPERIENCES AND UNDERSTANDING OF GROUND REALITY OF TIBETANS IN LEH (LADAKH)

Tibetans are the only refugee group in the world who have been able to preserve and sustain their practices, customs, spiritual beliefs and culture even while living in exile. The Tibetan community has adapted to their exiled life, but they are also acutely aware of the pressure to stay true to their Tibetan identity, and to fight for their return to Tibet. It is evident that Tibetan exiles form a close-knit community, and their customs and traditions have enabled them to stay

[293] Personal Interview conducted in Sonamling Tibetan Settlement on 21st May 2018.

united. Majority, within the global refugee community, perceive rehabilitation of Tibetan exiles to be a success story. However, my experience and understanding from the interviews I conducted with the Tibetan community in Ladakh had a different narrative to tell. The exile community of Tibetans is confronted by a range of difficulties, such as educated unemployed youth, travel abroad constraints, undefined legal status and issues with applying for Indian citizenship. Despite their remarkable educational attainment, their statelessness makes them ineligible for many job opportunities in India's public and private sectors. The Tibetan community experiences uncertainty and unfairness when striving to acquire licenses or permission to start business activities outside the settlement. They are not entitled to get bank loans or buy or own land, causing an increased amount of unemployed youth. Most of my interview participants at Sonamling Tibetan settlement were between the age group of 35- 55, while the younger population had migrated to other Tibetan settlements either for higher studies or better jobs. Upon conversing with the target participants regarding available employment opportunities in Leh, besides the CTA, they expressed their dissatisfaction with the lack of permanent jobs in private and public sector as well as the absence of business activities such as setting up a travel agency or a sweater shop, small restaurants etc. Most of them were especially keen on moving out of Leh to other Tibetan settlements because of multiple factors, such as harsh geographical conditions, isolated location of the settlement, state government restrictions on jobs to list a few. While everyday living conditions for the older Tibetan (1st generation) population seems to have improved considerably from since they arrived, however, it is the younger population 2nd and 3rd generation Tibetan who were born in India or lived most of their childhood and youth here that aspire for a stable and dignified life. Even though they show their immense gratitude towards the Indian government for allowing them to live and continue practicing their religious and cultural traditions, it is the basic human desire to expect a better quality of life, one which not only recognises their legal status whether as refugees (Tibetan nationals) or Indian citizens, but also their individual capability to be self-sufficient.

4.2 TIBETAN CLUSTER SETTLEMENT, DHARAMSHALA (KANGRA DISTRICT)

McLeod Ganj is a suburb of Dharamsala in the Kangra district in state of HP in North India. It stands in the Dhauladhar Himalayan Range at aapproximately 1750ft. above sea level.[294] Tibetans name it Little Lhasa or Dhasa, which is short for Dharamsala. The Government of Tibetans in Exile is headquartered in McLeod Ganj, with the support from center and state government (Himachal Pradesh) of India. His Holiness the Dalai Lama arrived in Dharamshala in 1960 and soon the exile government (Central Tibetan Administration) was established. Since then, there has been a dramatic increase in the Tibetan exilic population in and around McLeod Ganj. The Tibetan Welfare office was established in 1967 in McLeod Ganj, Dharamshala, to look after the socio-economic wellbeing of the Tibetan exile population in and around Dharamsala.[295] It acts like a liaison between the Tibetans refugees in Dharamsala and Central Tibetan Administration. It is about 8 km from the main town Dharamsala. The Welfare officer is tasked with adjudicating disputes, conversing with group leaders and local authorities, and supervising the management of Tibetan population on a day-to-day basis. Tibetans in this region are scattered around the hills of Dharamsala and, as per their location, they are divided into five divisions. There is no distinct area for Tibetans to reside, and they coexist with the local population in the surrounding area. Present population of Tibetans in and around Dharamshala is approximately 8256.[296] Tibetans in Dharamsala do not have any land on lease for rehabilitation settlement camps from the Indian government like other places such as Leh, Bylakuppe, etc. Hence, they are scattered around upper and lower Dharamshala, mostly living in McLeod Ganj. The primary source of revenue for the Tibetan inhabitants of this area derives from running small restaurants, stores, short-term businesses, producing handicrafts and selling

[294] CTRC. (n.d.). *Dharamsala, Kangra Distt.* [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/dharamsala-kangra-distt/ [Accessed 26 Apr. 2022].
[295] CTRC. (n.d.). *Dharamsala, Kangra Distt.* [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/dharamsala-kangra-distt/ [Accessed 26 Apr. 2022].
[296] CTRC. (n.d.). *Dharamsala, Kangra Distt.* [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/dharamsala-kangra-distt/ [Accessed 26 Apr. 2022].

sweaters, among other occupations. The CTA and Tibetan Settlement Office have been foundational in the development of McLeod Ganj for the Tibetan population, with the intention to retain Tibetan culture through the creation of a Tibetan Hospital, Tibetan Library, school, Tibetan culture and performing arts center, etc. The main administrative entity located in lower Dharmashala, adjacent to McLeod Ganj, is the CTA, which is structured as a democratically elected parliamentary system, including a legislature, executive branch, and judiciary.[297] The CTA complex is comprised of the offices of the disparate departments of the TGIE, for example, the Dept. of Home, Education, Culture and Religion, Health, Security, Finance and the DIIR ("Department of Information and International Relations"). [298] Like every other genuine democratic system, the Tibetans in Dharamshala elect their own representatives. These elected members act as an intermediary between common Tibetan residents and relevant authorities within the CTA and with the local district and state authorities. Currently, the cluster settlement in Dharamshala has socio-economic welfare facilities such as TCV Schools offering secondary and senior secondary level education, a Tibetan Medical and Astrological Institute, and a modern allopathic hospital with 15 monasteries, an old age home with approx. 150 elders and several cultural institutes e.g. Norbulingka Institute, Tibetan Centre for Performing Arts and Culture.[299]

4.2.1 ARRIVAL AND STAY AT MCLEOD GANJ

Dharamshala is accessible by rail, road and air. My journey from Delhi to Gaggal, Himachal Pradesh, was by air, which is the nearest airport to Dharmashala. Drive from the airport to McLeod Ganj is approximately 2 hours. Prior to scheduling my visit in January 2021, I emailed the secretary of the Director, DIIR to specify the purpose of my visit and request aid to arrange interviews with officials at the Central Tibetan Administration. My original design was to go to McLeod Ganj earlier, potentially in the summer of 2020. However, the complete lockdown

[297] Central Tibetan Administration. (n.d.). *About CTA*. [online] Available at: https://tibet.net/about-cta/.
[298] Central Tibetan Administration. (n.d.). *Central Tibetan Administration*. [online] Available at: https://tibet.net/.
[299] CTRC. (n.d.). *Dharamsala, Kangra Distt.* [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-india/dharamsala-kangra-distt/ [Accessed 26 Apr. 2022].

and travel prohibitions due to the COVID-19 pandemic in 2020 caused an alteration in the schedule, and when the travel prohibitions were eased in January 2021, I restored contact with the Secretary at DIIR. I was pleased to receive a quick and encouraging response to my correspondence and was requested to provide a brief explanation of the purpose of my research, potential interview questions, and the length of my stay.

Upon arriving at the centre of McLeod Ganj's market square or taxi station, it was possible to observe the hustle and bustle of the location. On either side of the central square, the route to Upper Dharmashala (Dharamkot, Bhagsu), lower Dharamshala Jogiwara road, and Dalai Lama Temple Road, numerous small shops, eateries, etc. are visible. My accommodation was located on the Dalai Lama Temple Road, that connects to the abode of His Holiness the Dalai Lama and the Namgyal Monastery. This street is in the middle of the town, and has a plethora of coffee shops, NGOs, Tibetan restaurants as well as other trade businesses. McLeod Ganj is the primary area of residence for the Tibetan people and the economic activities. While the main roads were lined with only shops, I noticed a small cluster of homes on off roads behind the bustling main streets. It was observable in these areas that the Tibetan community is living harmoniously with the native inhabitants. Congenial interactions and gestures, activities of a social, economic and cultural nature are conducted without restriction and are visible everywhere between the local population and the Tibetan community.

I traversed most of the McLeod Ganj's market area and main roads by foot, and this enabled me to understand the atmosphere of tolerance and friendliness that exists between the Tibetan and Indian host community. I observed Monks roaming, halting at tea shops for pleasant interchanges and Tibetan women knitting and vending sweaters while interacting with the travellers. It was evident that there was an atmosphere of familiarity and ease between the Tibetan group and local inhabitants, whether in their homes, commercial spaces, or places of worship (Namgyal Monastery). The town of Dharamshala ran like a well-oiled machine due to mutual respect and harmony, which can be attributed to both the Tibetan community and the inhabitants of the town's collective efforts over the years. Primary purpose of my visit to

McLeod Ganj was to conduct as many elite interviews as possible of officials and members from the CTA and Tibetan NGOs like Tibetan Women Association, Tibetan Youth Congress, Student for Free Tibet etc. who would probably shed some light on the life, legality and functioning of Tibetan exile community in India other than that provided by a common Tibetan settler. While waiting to receive details of my interviews with CTA officials, I took the opportunity to explore around the commercial districts of Jogiwara Road and Temple Road, and visited coffee shops operated by Tibetans. During my visit to a bookshop owned by a middle-aged Tibetan woman, I engaged in some light conversation, and I could tell that she had realized I was not a typical tourist but was there for research purposes. She stated that in the past, many Indian and international researchers have come to McLeod Ganj to investigate the lives of the Tibetans in this region. She was conscious of her role as a Tibetan National to give data and answer questions if requested about their lives as exiles in McLeod Ganj. This stimulated me to continue on with my interview with her and gave me a useful start on my initial day.

4.2.2 EXPERIENCES OF 2ND GENERATION TIBETAN IN MCLEOD GANJ

I interviewed a 35-year-old second generation Tibetan female, born and raised in Dharamshala, who managed a bookstore owned by a local resident. When asked about her life at McLeod Ganj, she said, *"I did my graduation long back and then worked at my father's tea shop for some time. I am married have two children who are studying in Upper TCV. My husband is working in Darjeeling. He comes on visit here. Everyday life for us is okay. We make decent living but with education I feel we can get better jobs. It is difficult to get jobs without formal refugee status and RC documents. I have Aadhaar card and ration card which the CTA helps us in getting, but with that also our identity is under question. We get temporary/ contract jobs and most of the youth here are unemployed or some of them are working in the CTA."*[300] This view seems to resonate with most 2nd and 3rd generation interview participants who did not

[300] Personal Interview conducted at Tibetan Cluster Settlement, Dharamshala on 11th January 2021.

show any displeasure in working or interning at the CTA or Tibetan NGO's but asserted that most Tibetan youth are well educated but do not get jobs as per their qualification and this the primary reason for them migrating to the West. While the younger Tibetan generation seemed to be following the latest trends, carrying up-to-date cell phones, and often seen riding bikes, according to a few of the original generation's interviewees, this is just a short-term distraction due to the lack of stable job opportunities which would be a concern for the community in the long term. Tibetans have been characterized as a hardworking and capable population who have been able to integrate into the local culture, taking up various job opportunities, while still maintaining their Tibetan identity. However, older residents of the Tibetan community are worried about the youth who have diverse values and are attracted by the contemporary lifestyle, forsaking their culture and customs.

4.2.3 VISIT TO CENTRAL TIBETAN ADMINISTRATION AND TIBETAN NGO'S

Examining the market area in McLeod Ganj for a few days, I organized my visit to the CTA, having been given confirmation of my interviews with the officials. I walked my way to the complex through the main Jogiwara road. It was a downhill winding road about 2.5 km from the main square. At the entrance of the complex was a large gate, and I submitted my information at the reception desk. I observed that the complex was well spaced out, with modern buildings and sign boards. I was required to go to the DIIR, which was the first building near the entrance, for my scheduled interview. Having some time to spare, I surveyed the complex and noticed the Department of Education, Tibetan Parliament in Exile, Department of Home, etc. It was a weekday, so there were people going about their business, possibly officials or Tibetans, who were employed at the various departments. After making my observations, I proceeded to the office of the Director of the DIIR. I was received by the office secretary with whom I had my initial correspondence. Walking into a government office was like any other, except for the picture of HH Dalai Lama and the Tibetan National Flag and Symbol on display at the entrance, which was a constant reminder. All the interviews I had set up at the CTA

during my stay ran without any hostility or inhibition from any of the participants. Instead of what I had expected, I found the information to be more thorough and several even recommended that I could reach out to their contacts for an interview if I wanted. My communication with the officials from the CTA revealed that, as is the case with all government officials, they had a non-partisan attitude towards Indian policies for Tibetans. In fact, they showed gratitude for all the support that the community has received for decades. Most of my interviewees from various CTA departments focused on providing details about the operations of their departments and the organization of Tibetans throughout the nation. When questioned on CTA's stance concerning Tibetan's obtaining Indian citizenship, majority of them expressed a neutral viewpoint and mentioned that it was a personal preference, and that the CTA does not have any role in influencing the decision of any Tibetan National. However, they stressed the importance of keeping the Tibetan cause alive and strongly believed that the Indian government could play a crucial role in helping them gain autonomy in Tibet.

I visited the CTA complex regularly to conduct elite interviews. I was also guided to visit the Tibetan NGOs based in McLeod Ganj, where I interviewed members from the Tibetan Youth Congress, Tibetan Women Association, Student for Free Tibet. Most of the members of these NGOs were Tibetan youth either 2nd or 3rd generation born and raised in India (Dharamshala or other settlements in the country). Most of my interviews took place at the offices of the NGO on Jogiwara Road, which were quite cramped. However, a few members preferred a more relaxed setting, and we conducted some interviews in nearby cafes usually managed by their Tibetan friends/ acquaintance. In my conversations with Tibetan youth, particularly those involved with NGOs, it became evident that they were cognizant of their uncertain legal standing and privileges in India. During my interview with a young Tibetan woman who is a member of Student for Free Tibet, when she was posed with the questions concerning her opinion on obtaining Citizenship of India and the socio-economic rights of Tibetans in India, she swiftly replied that having a valid legal identity, be it as a refugee (with RC document), a Tibetan National (Green Book and Identity certificate) or as an Indian Citizen, was unquestionably necessary in gaining access to resources or claiming socio-economic rights in

India. She said, *"we Tibetans, especially few 2nd and 3rd generation youth, do not reject the idea of obtaining Indian Citizenship, to have better opportunities for education and employment. I believe that because we are born and raised in here, we are more Indian, and we can keep our Tibetan roots alive. But presently the Indian laws have excluded a certain category of Tibetans who do not fall within the age category of citizenship by birth and so cannot apply for Indian passports. These procedures have become more difficult with time. We have known members of our community like the famous Namgyal Dolkar who went till Delhi High court to get an Indian passport and is also a member of the Tibetan Parliament. So you see, getting a concrete legal status and keeping the Tibetan freedom movement alive are not mutually exclusive. It does not make us less Tibetan. Though the CTA and elders of our community are not every encouraging towards this approach of the youth, but I believe they should understand a place does not determine the roots and soul of a person. It is the community and people, and for that we will always remain true to our Tibetan roots."*[301] Through conversations with many Tibetan youth, it has become apparent that there is a strong inclination among the younger generation to achieve success and to move away from the difficult lifestyle that their ancestors endured. It is their opinion that, with a legal status and identity, it would be easier to obtain resources and help with the Tibetan independence movement.

My experience in Dharamshala was rather mixed. The older Tibetans appeared to experience contentment in their daily lives, while the youth had a greater sense of purpose. While I did observe a few members of the Tibetan community who were unconcerned with matters beyond the community, this was not the majority of people I encountered. Views held by Tibetans in McLeod Ganj, particularly those of the younger generation, were largely focused on seeking out a more advantageous lifestyle, acquiring better job opportunities, and even entertaining the prospect of migrating to western countries or taking on Indian citizenship. Many of them expressed a feeling of pride when discussing someone they knew or a relative who had relocated to the United States or another European country and had become a citizen. My discussion with representatives of the CTA was the most beneficial part of my trip, as I was able to obtain a

[301] Personal Interview conducted at Tibetan Cluster Settlement, Dharamshala on 17th January 2021.

great deal of information about the TGIE, their goals and their desires for an independent Tibet. However, I was hoping to gain a greater comprehending of the present legal standing of Tibetans in India and their difficulty in obtaining Indian citizenship or citizenship of other countries, which I did not receive any clear opinions on.

4.3 TIBETAN REFUGEE SELF- HELP CENTRE (TIBETAN CLUSTER SETTLEMENT, DARJEELING WEST BENGAL)

Darjeeling district falls under Jalpaiguri Division and Sadar subdivision in the northernmost region of the state of West Bengal. It is noted for its tea industry, scenic views of the world's third- highest mountain Kangchenjunga and narrow-gauge mountain railway, the Darjeeling Himalayan Railway, which is on the World Heritage List of UNESCO. The town of Darjeeling is the administrative center of the Darjeeling district, which has been granted a measure of autonomy called the Gorkhaland Territorial Administration by the state of West Bengal. It is home to a vast array of demographics, including the Lepcha, Khampa, Gorkha, Sherpa, Bhutia, and so forth who were involved in the 1980s Gorkhaland movement.[302] The town lies at a raise of approximately 7,000 feet (2100 m) and temperature ranging from 18 to 9 degree Celsius. Chowrasta stands at the core of the town, acting as a promenade and the main center. Additionally, the Mall Road, which is the principal market of Darjeeling, extends from Chowrasta to the Government House.[303] Access to Darjeeling is made possible by air via Bagdogra airport, located 90 kilometers away, as well as by train through the New Jalpaiguri Railways station, 88 kilometers away. Moreover, regular bus services and hired vehicles connect the town to Siliguri, Kurseong, Kalimpong, and Gangtok. The Darjeeling Municipal Area served as the base for this fieldwork, yet the major interviews took place at the Tibetan Refugee Self-Help Centre.

[302] Wikipedia. (2021). *Darjeeling*. [online] Available at: https://en.wikipedia.org/wiki/Darjeeling
[303] CTRC. (n.d.). *Darjeeling, West Bengal*. [online] Available at: https://centraltibetanreliefcommittee.net/settlements/tibetan-settlements-in-india/north-east-india/darjeeling-west-bengal/ [Accessed 28 Apr. 2022].

4.3.1 ARRIVAL AND ACCESS TO THE TIBETAN REFUGEE SELF- HELP CENTRE

The Tibetan Refugee Self- Help Centre began on 2 October, 1959. In 1961, it was officially established as a Charitable Organization in accordance with Indian Law. A ten-person committee in Darjeeling was established to create and manage a rehabilitation center referred to as the Tibetan Refugee Self- Help Centre.[304] The founding members initially raised funds by way of subscriptions, donations, charity shows and a football match exhibition, followed by donations from NGO's from around the globe, like Central Relief Committee (India), the Red Cross, and the American Friends Committee.[305] Initially, the Self-Help Centre consisted of only four workers, whereas today it is a home to 130 Tibetan families. The Tibetan Refugees Self Help Center is situated in Darjeeling District, West Bengal, at Hill- Side Lebong, more commonly referred to as Hermitage. This estate, made up of four acres of land, had originally been leased from St. Joseph's college, but was eventually bought by the Tibetan community.[306] It serves as an ideal place away from the main town, while still being conveniently close by road. Handicraft production remains the primary activity and source of income for the Tibetans residing at the self- help center. Tibetan Carpets, Thangka paintings, wooden folding tables, frames, wall hangings, bronze and copper pots, prayer wheels, and woolen coats, jackets, caps, boots, chuba are among the traditional items which are manufactured and sold at a shop on the premises of the Centre.

The Tibetan Self- Help Centre serves as a rehabilitation site for Tibetans living in and around Darjeeling. Not only does it offer training workshops for Tibetans to produce handicrafts, but it also provides welfare activities to assist orphans, elderly people, disabled individuals and

[304] TRSCH (n.d.). *About Us*. [online] Tibetan Refugee Self Help Centre. Available at: https://tibetancentredarjeeling.com/about-us/ [Accessed 28 Apr. 2022].
[305] TRSCH (n.d.). *About Us*. [online] Tibetan Refugee Self Help Centre. Available at: https://tibetancentredarjeeling.com/about-us/ [Accessed 28 Apr. 2022].
[306] TRSCH (n.d.). *About Us*. [online] Tibetan Refugee Self Help Centre. Available at: https://tibetancentredarjeeling.com/about-us/ [Accessed 28 Apr. 2022].

those in need among the Tibetan community.[307] The Centre is home to approximately ninety elderly, disabled, and impoverished individuals who are fully reliant on the Centre for free housing, nutrition, medical attention, apparel, and other necessities. The Centre also has a creche, a primary school, an infirmary, dental center, and a hospital. Tibetan Refugee Self- Help Centre adopted a distinct attitude towards rehabilitation, which was rooted in self- reliance and self- sustaining employment. The Department of Home, CTA does not list TRSHC among its enumeration of Tibetan Settlements in India. Instead, it is classified as a scattered settlement in Darjeeling. The dwellings that are scattered have managed to stay mostly clear from the direct authority of the CTA, with the welfare officer placed in Darjeeling acting as the CTA's representative.

While I was in Dharamshala, I had conversations with some representatives from the Department of Home at CTA, and I brought up my plan to do fieldwork at the Tibetan Refugee Self-Help Centre in Darjeeling. The relevant official graciously gave me a referral to the Settlement Officer at Darjeeling and provided me with a letter of recommendation to present when I arrive at the office there. Consequently, due to my prior connection and rapport with the settlement/ welfare officer at Darjeeling, it was incredibly convenient for me to access the Self-Help Centre and gain local aid navigating the market area, streets, and shops of the town. On my first visit to the Self- Help Centre, I was accompanied by one of the junior officials from the Settlement Office. It was a 20-minute winding road journey from my place of stay to the Centre. The Centre was accessible via the main Darjeeling town, leading to the outskirts. An indication from a sign along the main road showed an unpaved road that would take us to the central square of the Tibetan Self- Help Center. As I arrived at the highest point of the hill and parked outside the complex, I noticed the silence and lack of population, which was contrary to what I had thought due to the Centre being the source of all activities. The Center seemed to lack the usual hustle and bustle when compared to Leh and Dharamshala. I questioned the

[307] TRSHC (n.d.). *Department and Activities*. [online] Tibetan Refugee Self Help Centre. Available at: https://tibetancentredarjeeling.com/department-and-activities/.

official why this was the typical view here, to which he said that most of the inhabitants were engaged in their daily tasks or had gone to the main town to work.[308]

The main courtyard of the center is surrounded by workshops that visitors are welcome to enter and interact with the inhabitants while they make different handicrafts. Initially, I ventured into the area of carpet weaving and saw a small group of women on the ground with wool and fabric, manually weaving what appeared to be mid-sized carpets on rudimentary wooden looms. We exchanged a nod as I looked around the room. There was a supervisor in the principal wool dying area who had been residing in Darjeeling since he was five years of age and eventually began to work in the carpet weaving section. I explored the crèche and primary school area, the arts and crafts section, the painting area, the wooden handicrafts manufacturing area and a showroom where the finished products can be purchased. The residences of those living and working in the centre were beyond the central courtyard, along an uphill track with semi-pukka (wood and brick) dwellings placed in succession. I noticed some ladies were near a hand-pump filling water. The official accompanying took me around the camp to allow me to become acquainted with the area. I realized that moving around in Tibetan settlement/ market area in Leh and McLeod Ganj was easier, whether in terms of accessibility or the environment/ atmosphere of the camp/ Tibetan resident public or private space. Tibetan residents seemed to be more friendly and social in both those places compared to Darjeeling. For the duration of my stay and visit to the Self- Help Centre, I noticed that very few young Tibetans lived there. Interviews with locals revealed that majority of their children had left Darjeeling and relocated to either Kolkata or Delhi to pursue better job opportunities.

[308] Donkin, E. (2019). The Forgotten Tibetan Refugees of Darjeeling. [online] Travelogues from Remote Lands. Available at: https://www.remotelands.com/travelogues/the-forgotten-tibetan-refugees-of-darjeeling/ [Accessed 23 Apr. 2022].

4.3.2 ASSIMILATION AND TIBETAN EXILE IDENTITY

Darjeeling has been an intersection of heterogeneity, cosmopolitanism, and a variety of people and other forms of movement. The population in the town was comprised of numerous categories of people with different ethnic backgrounds living in the same neighborhoods, including Bhutia, Lepchas, Sherpas, Nepalis, and Gorkhas. For Tibetans in Darjeeling, assimilation and integration with the local host population has not been a problem considering their affinity and shared cultural and religious traditions.[309] However, I also gathered through my interviews with the Tibetan community that there have also been instances where the local population has not been very welcoming in accepting Tibetans to be a part of town economic activity. Majority of workers employed at restaurants, cafes, and shops were Nepalis and Gorkhas, while Tibetans were mainly limited to the Tibetan Refugee Market area and the shops near the Self-Help Center. Most of my interview participants readily shared information about their daily lifestyle, work, and interaction with the local population. Through my interviews, I learned interesting facts regarding ethnic similarities between Tibetans (post-1959 exodus) and the Tibetan Bhutia (pre-1950 migrants) people, and that being the principal factor for resettlement and rehabilitation for the Tibetan community (post- 1959 exodus) in Darjeeling.[310] My interviewees generally commented that these individuals have found it simpler to assimilate and become part of the Tibetan Bhutia community. The Tibetan people of Darjeeling have employed the terms refugee and Bhutia for practical reasons, which have assisted them in forming both cooperative and competitive ties with other local populations. The Bhutia people in Darjeeling have obtained Indian Citizenship, and their close ties with the Tibetan population has helped the Tibetan community to endure and gain access to resources. For newer Tibetans, the obvious choice of resettling in Darjeeling was because of their predecessors (members from the Bhutia Community). I observed friendly interactions between residents of the Tibetan Refugee Self- Help Centre and the neighboring Bhutia population. Few of my interview

[309] Basu, S. (2018). In diasporic lands: Tibetan refugees and their transformation since the exodus. Hyderabad: Orient Blackswan.

[310] Basu, S. (2018). In diasporic lands: Tibetan refugees and their transformation since the exodus. Hyderabad: Orient Blackswan.

participants also shared that there have been instances of marriage between the two communities and that itself creates a new identity for Tibetans in Darjeeling.

4.3.3 INDIAN CITIZENSHIP, ACCESS TO BETTER LIFE: INTERVIEW WITH A 2ND GENERATION TIBETAN

In my interview with a 2nd generation, 52-year-old female resident at the Tibetan Refugee Self-Help Centre, I gathered that Tibetans in Darjeeling have adopted a fluid sense of identity for their survival. She indicated that her daughter had married a boy from the Bhutia family, who was an Indian citizen, resulting in her daughter becoming one as well. She said, *"for my family it is important to live good life. We are Tibetan at heart and hope to go back to Tibet one day, but today we live in India and my children are Indian also. To live better life for grandchildren we need to do everything. I am Tibetan, we all are. But we have no option but to see our survival. My son also in Calcutta has done paperwork to get Indian citizenship."*[311] The preservation of her family's livelihood, as well as their ability to access resources and jobs, is of greater importance and practicality. As long as the Tibetan exile community continues to practice their cultural traditions, the essence of Tibetaness will remain in their hearts. But with her views on living everyday life, she also argued that it is important to understand the practical aspects of life for future generations. For her and most participants, Tibetan identity could be preserved in daily traditional practices, cuisine, culture, and religion, which they as a community are free to practice in India. However, when it comes to education, jobs and a better standard of living, their indeterminate legal status does not give them much hope and support. While interviewing a few participants in their homes, I observed structure and patterns, traditional woolen rugs, handicraft items, which signified the importance of keep the notion of a place (in this context Tibet–homeland) alive. However, for the Tibetan youth who have not been to Tibet, the idea of

[311] Personal Interview conducted at Tibetan Refugee Self-Help Centre on 25th February 2021.

Tibet and going back home is too far-fetched. It seems their sense of belonging depends more on survival than on sentiments.

Even though the Tibetan Refugee Self- Help Centre receives financial aid from many international organizations and is viewed as a symbolic institution to preserve the Tibetan identity in a town with ever-changing and multiple ethnic population, it cannot support the growing Tibetan diaspora in Darjeeling. Although a minority, Tibetans living in Darjeeling have managed to have successful careers as self-employed and self-settled. Some have been aided by the Tibetan Refugee Self-Help Centre and a few have been able to become a part of the local population and obtain Indian citizenship, as reported in interviews. Becoming legally secure through obtaining a refugee status or acquiring Indian Citizenship is perceived by many Tibetans living in Darjeeling as the only option to get access to resources and new opportunities for work. In my interview with a 27-year-old Tibetan male resident, I noted he showed keen interest in obtaining Indian citizenship at the same time mentioned the importance of getting their freedom and going back to Tibet. Even though he understood he was not eligible to get Indian citizenship under the present clauses of the Indian Citizenship Act. He candidly mentioned that there are other ways and routes through which some people from their community have got Indian documents like ration card, Aadhaar card and even Indian Passport (proof of Indian Citizenship), which indicated towards the fact that officials may be open to bribes at some point in time. It is a demonstration that for a Tibetan in Darjeeling, dire circumstances necessitate drastic steps and that integration into the host society requires becoming an Indian Citizen while still upholding Tibetan Identity and culture. For most of the Tibetans in Darjeeling, a sense of belonging is identified not within the confines of a territory but by being connected with their kith and kin.

I would like to believe that my short stay (because of the Covid-19 pandemic) in Darjeeling was very insightful on multiple levels. First, I experienced the complex association between the local communities/ residents and Tibetan exile community w.r. t having a fluid identity which is unique to the field site of Darjeeling. Second, my visit to the Tibetan Refugee Self- Help

Centre was most helpful in understanding the desire and capability being the Tibetan exile community to self- sustain and rehabilitate themselves as refugees in a host country, while preserving their art, culture, and traditions. Third, similar to majority opinion of the Tibetan youth population, in Darjeeling also I found they aspire for an indisputable concrete legal status whether as refugees or as Indian Citizens which would ultimately give them the right to have rights.

4.4 FIELD EXPERIENCES AT LEH, DHARAMSHALA AND DARJEELING

As a researcher, my role was that of both an observer and participant. While I gathered substantial information through actively participating in interviews and casual conversation with Tibetans across the three sites, the field notes I made while silently surveying public and private spaces shared by Tibetans and the host population gave context and meaning to my interviews. I contend that building a rapport and relation of trust was with the interview participants may have been difficult initially but my duration of stay, everyday visit to common hang-outs and I believe genuine interest in the community helped me pave a smooth pathway for further interaction.

I made a conscious and purposeful decision to choose these the field sites, as mentioned previously. One thing I can say from my experience is that all three sites were unique in their own way, whether because of their isolated geographical locations, refugee- host dynamics, level of access to resources vis-à-vis laws of the local/ state government, difference of opinion with the Tibetan community- generational gap or helpful insights from CTA officials. As ethnographies are ideally multi-site research studies, I feel interviewing and researching in Leh, Dharamshala, and Darjeeling have enriched my knowledge and experience personally and academically. Understanding the Tibetan community through their everyday life and struggles, their hope and expectation from their government and the Indian government in their own words seems to have validated my purpose of conducting a bottom-up study, based on ground realties

as opposed to or in addition to already existing literature on Tibetan diaspora in India and the policies by the GoI for their resettlement and rehabilitation.

Through my fieldwork at all the three sites, I understood there are few personal relationships between the Indian local population and Tibetan exile community. Most of the interaction and relations between the two groups are primarily seen in the economic sphere. Even though the Tibetan exile community is self- sustaining, however the educated Tibetan youth have different aspirations for growth and a better life beyond the designated Tibetan Rehabilitation Settlements. For many younger Tibetans, India is their home, as they have been born and raised here. Tibet forms a part of their idealizations and the reality of achieving it seems distant. Though in spirit, Tibetans, whether old or young, are attached to their roots and traditions, which they still believe is the most essential factor in keeping the Tibetan freedom movement alive. However, the sense of belonging or Home, for most of the younger Tibetans, seems to be attached with their kin and community and not with a place or territory. Hence, they have a growing desire to either acquire Indian citizenship (if procedures and laws are made favorable) or migrate to western countries for lucrative opportunities in education, employment, and lifestyle. Tibetans in exile believed that taking refuge in India was only a temporary phase and soon they would go back to Tibet. However, living in India for over 60 years and settled across the globe, the notion of belonging has transformed for most of the diaspora.[312]

Different Tibetans generations living in India, specifically in these three sites, have experienced various stages of growth, whether amongst them as a refugee community or with the host population, local and state authorities. My fieldwork revealed to me that tremendous efforts had been made by the Indian and Tibetan populations to establish amicable relations. I argue that the Tibetan group living in exile in India has coexisted well with the Indian host community. The local populations' and the surrounding government's generous accommodations have given the Tibetan exiles a quiet area in which to set up their exile government, political action, institutions for cultural preservation, and education for the next generation. However, the

[312] Diehl, K. (2002). Echoes from Dharamsala Music in the Life of a Tibetan Refugee Community. doi: https://doi.org/10.1525/california/9780520230439.001.0001.

refugee community encounters procedural hiccup and arbitrary treatment to date regarding owning property, running legitimate business, permanent employment in both public and private sector. They identify the reason for such ad-hocism is lack of a uniform law for refugees in general and reluctant implementation of socio-economic welfare policies for Tibetans in Exile in India.

CHAPTER 5

TIBETAN EXILIC PARADIGM: FINDINGS OF THE STUDY

ABSTRACT

The focus of this thesis chapter lies on the findings and central themes that emerged from my interviews with Tibetans residing in Leh, Dharamshala, and Darjeeling. The chapter specifically provides an insight into everyday challenges and predicaments faced by the Tibetan exile population individually as well as collectively. Balancing their collective need to maintain cultural identity and continuity with the distinct desire to obtain socio- economic mobility by applying for Indian citizenship or migrating to the West for improved opportunities. Within this chapter, I endeavor to provide contextualization for significant concepts, such as belonging, identity, the spirit of nationalism, and citizenship. This is achieved through the utilization of personal experiences and narratives of Tibetans in exile. It provides us with the ability to grasp the progression of choices within the Tibetan Diaspora, particularly in terms of prioritizing oneself over the community and the Tibetan cause. Examining the time when Tibetans first arrived in India, established a secure community in exile with the aid of the Indian Government, and settled in different parts of the nation in well-defined refugee camps to the current state of an ongoing impasse regarding their legal status in India along with uncertain stance of the Indian government and laws which are detrimental to their well-being and basic human rights. This chapter explains the fluctuating nature of Tibetan national identity and the role of host nation and non-state actors in the reconstruction of their identity in exile. Most Tibetans living in India do not strive to become Indian citizens and consider this selection to be vital to the Tibetan cause and protecting their identity in exile. Many Tibetans living in exile, particularly second and third generations, would prefer to live in a settled environment with improved educational and professional opportunities, either by obtaining citizenship rights in India or migrating to the West. Detailed ethnographic accounts of the exiled Tibetans will draw attention to their state of limbo caused by legal status, identity, and citizenship politics.

5.1 ADVERSITIES ENCOUNTERED BY TIBETAN EXILES DURING RESETTLEMENT

Prior academic research studies have focused specifically on the early stages of the resettlement of Tibetans in exile, as well as connection between the identity of Tibetans and the complicated association between the host country, the exile government, and several foreign aid organizations.[313] The findings of this research study broadly supports the work of earlier studies in this area and reasserts that in the initial stage of exile, rehabilitation for the Tibetan exile community entailed uniting all Tibetans into one collective unit, enabling them to sustain their traditions and culture, form a national identity, and ensure basic livelihoods for self-supporting communities living in exile.[314] The Dalai Lama, shortly after his arrival in India, originated the CTA, formerly recognized as the TGiE, in Dharamshala in 1959. The CTA, with the aid of the GoI, formed a refugee rehabilitation program to give Tibetans a place to live, financial aid, healthcare, educational opportunities, and access to cultural resources. Since then, the CTA has not only been overseeing Tibetan camps and settlements, but they have also implemented a

[313]Anand, D. (2000). (Re)imagining nationalism: Identity and representation in the Tibetan diaspora of "South Asia1. *Contemporary South Asia*, 9(3), pp.271–287. doi: https://doi.org/10.1080/713658756. McConnell, F. (2011). A state within a state? Exploring relations between the Indian state and the Tibetan community and government-in-exile. *Contemporary South Asia*, 19(3), pp.297–313. doi: https://doi.org/10.1080/09584935.2011.594160. Bentz, A.-S. . (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016; McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, 103(4), pp.967–983. doi: https://doi.org/10.1080/00045608.2011.628245; ; Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, 74(1). doi: https://doi.org/10.18874/ae.74.1.08; McGranahan, C. (2016). Refusal and the Gift of Citizenship. *Cultural Anthropology*, 31(3), pp.334–341. doi: https://doi.org/10.14506/ca31.3.03; Frilund, R. (2019). *FROM TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala*. [online] Available at: https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023]; ; Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi: https://doi.org/10.1080/14631369.2019.1579635; Seetharaman, A. (2020). Tibetan Refugees in India: The Challenges of Applying for Indian Citizenship. [online] (54), pp.95–113. Available at: https://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_54_05.pdf [Accessed 25 Apr. 2023]. Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013.

[314]Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf" [Accessed 25 Apr. 2023].

prescriptive rehabilitation system that mainly benefits stateless Tibetan exiles. It formulates a political account of home and exile, which sets the exile experience of the Tibetan people apart from other refugee groups across the globe.[315]

The current study shows that comprehension of the Tibetan diaspora in exile and their host nation's rehabilitation strategies have dramatically transformed due to the vast modernization and advancement both in the exile community and the nation-state. Perhaps a striking conclusion in the Indian context is that rehabilitation in the present day refers to assisting and aiding the Tibetan communities that are already well established and providing them with the same opportunities and growth initiatives as are available to the host population i.e. Indian citizens. While, the present research confirms that the Tibetan restoration program, in conjunction with the rehabilitation policies implemented by the Indian Government, has brought about an intricate presentation of identity that is built from the interweaving of bureaucratic and emotional attachments to land and community. At the same time, the study also makes a significant observation about the essentiality to maintain a balance between life in exile and in the homeland. This has a vital effect on the everyday lives and political actions of the Tibetan people as there may be worries and ethical qualms when permanent or generational claims of association are declared while in exile, which could cause a decrease in the passionate bond to the homeland.[316]

[315] Bernstorff, D. and Hubertus Von Welck (2004). *Exile as challenge: the Tibetan diaspora*. New Delhi: Orient Longman.

[316] Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023]; Thapa, S. (2019). FLEXIBLE LIMINALITY AMONG THE TIBETAN DIASPORA: TIBETAN EXILES ADJUSTING CULTURAL PRACTICES IN DHARAMSALA, INDIA AND THE UNITED STATES. *Theses and Dissertations--Anthropology*. [online] doi: https://doi.org/10.13023/etd.2019.023.
Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030.

5.1.1 LEGAL STATUS AND DOCUMENTATION OF TIBETANS IN INDIA

The results of this study indicate that an assorted system of rehabilitation and welfare facilities is present among the Tibetan population in various settlements, caused by random state policies, social ostracism, uncertain legal status, and undoubtedly a lack of a specific law related to refugee rehabilitation and management. The divergence between the administrative and legal conceptions of the status of Indian Tibetans in has resulted in a variety of issues, including the conundrum of, if Tibetans should be given Indian citizenship. The present study also highlights that evident marginalization both within and outside of the Tibetan exile community in India has a negative effect on the long-term survival of the community. Tibetans living in India are greatly concerned with their legal status and the rights that accompany it, which obstruct their social and economic advancement. While most individuals consider themselves to be Tibetan nationals, demonstrating loyalty to their spiritual leader, HH the Dalai Lama, and hold the required paperwork (Green Book) mandated by the CTA. However, an unexpected yet obvious outcome of the study signals that the younger generations of Tibetans expect clarification regarding their legal and socio- economic status from the India Government as the statelessness of a substantial population of 2nd and 3rd generation of Tibetans in exile is contingent on the policies of their host country i.e. India.[317]

Consistent with the literature, this research study indicates that documentation for entry, residence, travel and legal status of Tibetans in India are divided into three groups depending on their arrival and ability to acquire a Special Entry Permit (SEP), Registration Certificate (RC) and Identity Certificate (IC). Tibetans who migrated to India between 1959 & 1979, those who migrated between 1980 and 2003 and those who migrated to India from 2003 onward. The Indian Government issued RCs for the first group, whereas for the 2nd group, RCs were not officially given by the Indian Government. However, it mainly comprised children, monks, and nuns who had studied in Tibetan monasteries and schools in India, hence with the assistance of

[317] Seetharaman, A. (2020). Tibetan Refugees in India: The Challenges of Applying for Indian Citizenship. [online] (54), pp.95–113. Available at: https://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_54_05.pdf [Accessed 25 Apr. 2023].

the CTA, they ultimately attained RCs. Starting in 2003, Tibetans had to obtain a SEP in order to enter through Nepal, with the permit being divided into the categories of education, pilgrimage, refugee and other. By the year 2008, the classifications of refugees and other groups were no longer applicable, thus, only students and pilgrims were issued SEPs. At the request of the CTA, the GoI later provided the choice of converting the SEP's into RC after confirming the documents from the CTA and issued mandates to the local authorities to legitimize the Tibetan presence in different parts of the country by awarding them RC after verifying their backgrounds.[318] In accordance with the Foreigner's Registration Acts, Tibetans must register with the Ministry of Home Affairs. A Registration Certificate that is provided in the form of a booklet functions as the legitimate document granting residency requiring renewal every six months or annually for Tibetans in India to extend their stay. In 2012, the GoI determined that Tibetans who had lived in India for two decades would have their Registration Certificates renewed after five years. Furthermore, the MEA provides identity certificates, which are a form of travel documentation, to Tibetans desiring to go to other countries. These certificates are valid for a period of 10 years and do not prohibit them from coming back to India.[319]

It may seem that the Indian government has established an efficient system for granting legal identification papers to the Tibetan population in India. However, findings of the current study showcase a contradictory reality for Tibetans in India, as they have to go through considerable administrative difficulty and inconsistency when registering, renewing, and verifying their RCs.[320] A pattern can be seen when tracking the disparate levels of reception of Tibetans in

[318] Kaufman, E. (2008). Applied to Tibetans Formerly Residing in India Applied to Tibetans Formerly Residing in India SHELTER FROM THE STORM: AN ANALYSIS OF U.S. REFUGEE LAW AS APPLIED TO TIBETANS FORMERLY RESIDING IN INDIA. *Geo. Immigr. L.J*, [online] 497, p.23. Available at: https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1378&context=scholarlyworks [Accessed 25 Apr. 2023]. TIBET'S STATELESS NATIONALS II: TIBETAN REFUGEES IN INDIA. (2011). Available at: https://www.tibetjustice.org/reports/stateless-nationals-ii/stateless-nationals-ii.pdf [Accessed 25 Apr. 2023]. TIBET'S STATELESS NATIONALS III: TIBETAN REFUGEES IN INDIA. (2016). Available at: https://www.bu.edu/law/files/2016/09/Tibets-Stateless-Nationals-II-FINAL-report.pdf [Accessed 25 Apr. 2023].

[319]TIBET'S STATELESS NATIONALS III: TIBETAN REFUGEES IN INDIA. (2016). Available at: https://www.bu.edu/law/files/2016/09/Tibets-Stateless-Nationals-II-FINAL-report.pdf [Accessed 25 Apr. 2023].

[320]Hess, J.M. (2006). Statelessness and the State: Tibetans, Citizenship, and Nationalist Activism in a Transnational World1. *International Migration*, 44(1), pp.79–103. doi: https://doi.org/10.1111/j.1468-2435.2006.00356.x. Information based on Interviews of Tibetans taken in Leh, Dharamshala and Darjeeling during fieldwork.

India over the years, as well as the alterations in requirements for acquiring and renewal of RC. The results of this study seem to mirror various accounts that have described the difficulty of the process many ordinary Tibetans have gone through to acquire RCs, and the lack of security that their RCs will be renewed, as the Indian government has made numerous alterations to the procedure. While the CTA and local settlement offices provide essential aid to Tibetans in India with their documentation needs. Regardless, they remain in a prolonged situation of fragility due to the unpredictable regulations and statutes of the land as, without the RC Tibetan incidence in India is illegal, they are subjected to detention by the police and payment of penalty.[321] Discoveries from my field study indicate that the Tibetan population recognizes the necessity of possessing a legitimate RC, not only to ensure their residence in India but it also serves as an official document of identity for Tibetans in India to gain employment, open banking accounts, obtain business permits and additional rehabilitation and welfare benefits. One of my interview participants in Leh asserted, *"RC Renewal is difficult process depends on* GoI *officials- sometimes take long time and for some of us it happens fast. We can go to jail if not get RC in time, and here in Leh we do not get bank loan after showing RC, outside settlement no value of RC for jobs or anything."*[322]

This study has produced results which corroborates and builds upon the findings of some significant previous works, highlighting two main themes that were evident with the Tibetan exile community concerning the predicament of their current legal status and expectation from the Indian government in the future. First, a section of Tibetans in exile (in particular the younger generation) is currently questioning the notion of remaining stateless and either petitioning for Indian citizenship or moving to countries in the West. To avoid the insecurities associated with their current legal status, they are seeking a more secure way of life with opportunities and, for this, they call for more inclusive laws and procedures, free from any

[321] Kaufman, E. (2008). Applied to Tibetans Formerly Residing in India Applied to Tibetans Formerly Residing in India SHELTER FROM THE STORM: AN ANALYSIS OF U.S. REFUGEE LAW AS APPLIED TO TIBETANS FORMERLY RESIDING IN INDIA. *Geo. Immigrant. L.J*, [online] 497, p.23. Available at: https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1378&context=scholarlyworks [Accessed 25 Apr. 2023].

[322] Personal Interview conducted at Sonamling Tibetan Settlement, Leh (Ladakh) on August 27, 2019.

arbitrary or biased administrative decisions.[323] Second, the Tibetans in India who connect the idea of statelessness to loyalty to their government strive to be officially acknowledged as "refugees" by the GoI, a process that would solidify and legitimize their desire for an Independent Tibet domestically and globally and put them in a position to be eligible for justifiable assistance and welfare, instead of being vulnerable to arbitrary policies and regulations.[324] Presently, Tibetans in India are viewed as 'foreigners', and do not receive any of the safeguards that come with being officially labelled as 'refugees' as India is not a signatory to the Refugee Convention and Protocol, and also does not have a national law on refugee rehabilitation and management. Perhaps the most compelling finding of this study shows that there is a growing feeling of exasperation experienced among the younger Tibetans in exile because of their indefinite legal situation in India, which leaves them without access to socio-economic rights. It is obvious that the decision to remain stateless is under threat. Although a majority of Tibetan exiles have not yet actively sought out Indian citizenship, they are gradually growing knowledgeable about it. It is concerning to the Tibetan community of what the future holds for their future generations in this state of limbo. [325]

[323] Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, 74(1). doi: https://doi.org/10.18874/ae.74.1.08; Frilund, R. (2017). (Transit) migration via Nepal and India: Tibetans en route to the West. *Migration Studies*, 7(1), pp.21–38. doi: https://doi.org/10.1093/migration/mnx064; Frilund, R. (2018). Exploring (transit) migration through a postcolonial lens: Tibetans migrating to India and beyond. *Journal of Ethnic and Migration Studies*, pp.1–17. doi: https://doi.org/10.1080/1369183x.2018.1501270.

[324] Choedup, N. (2015). From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration. *Arts & Sciences Electronic Theses and Dissertations*. [online] doi: https://doi.org/10.7936/K75D8Q30; Thapa, S. (2019). FLEXIBLE LIMINALITY AMONG THE TIBETAN DIASPORA: TIBETAN EXILES ADJUSTING CULTURAL PRACTICES IN DHARAMSALA, INDIA AND THE UNITED STATES. *Theses and Dissertations--Anthropology*. [online] doi: https://doi.org/10.13023/etd.2019.023.

[325]Information based on field interviews conducted in Leh, Dharamshala and Darjeeling for this thesis research. Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013.

5.1.2 LIVELIHOOD AND SOCIO- ECONOMIC MOBILITY

Despite their six-decade-long presence in India, Tibetans continue to face challenges because of their status as exiles in their settlements. Their economic, social, and political rights largely depend on resolving the identity issue. The Tibetan exile community holds multiple identities, as 'foreigners' for the Indian government, which is often replaced with the term refugee with no legal entitlement attached to it and as 'Tibetan National' for the Central Tibetan Administration.[326] One can also observe through the findings of this study, the impact of dual identity dilemma on everyday lives of Tibetans, wherein members of the Tibetan exile community have differential access to rehabilitation and welfare facilities both from the Indian Government as well as the CTA. Moreover, the narratives of several interview participant exhibit that a major challenge for the community of Tibetan in India is the problem of producing a highly educated but unemployed population. Despite the ambition of young Tibetans in Tibetan communities, there are few employment opportunities available. Since Tibetans are not allowed to operate establishments, receive business permits, or possess or acquire land, or to get bank loans, economic activity beyond Tibetan settlements is filled with doubt and insecurity.[327]

A comparative study of my field research indicates that the Tibetan community in Leh had issues obtaining job opportunities, business licenses and bank loans because of the legal restrictions inserted into place by the former State of Jammu and Kashmir.[328] One participant from Leh stated, *"tourism is good business here in Ladakh, but we cannot get driving license*

[326] Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi: https://doi.org/10.1080/14631369.2019.1579635.

[327] Information based on field interviews conducted at Leh Dharamshala and Darjeeling. Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

[328] On Aug 5, 2019, the special status of the former State of Jammu and Kashmir under Article 370 of Constitution was revoked by the Parliament and the State was bifurcated into two Union Territories — Jammu and Kashmir and Ladakh. BBC (2019). Article 370: What Happened with Kashmir and Why It Matters. *BBC News*. [online] 5 Aug. Available at: https://www.bbc.com/news/world-asia-india-49234708.

and we are not allowed to setup tourism agency service or taxi service, we do not get license for that. We cannot own cars also to run our own taxi service. We do not get loan from bank even when we have RC and Aadhaar card. You think how we can get work then?"[329] Tibetan people in Dharamshala had the advantage of gaining employment, owning small businesses legally and obtaining bank funding, which was due to the CTA's seat in the area, as well as the collaboration between the CTA and the HP state government. One informant in McLeod Ganj mentioned, "*CTA here in McLeod Ganj helps in renew and issue of RC. I have not faced any problem. With valid RC I have got my old job in Indian store and now I have Indian bank account also on my RC and Aadhaar card, I have my tailor shop. I pay rent for shop to local person. Owner is my friend*."[330]

Additionally, my field study confirmed that in Darjeeling, although there are no state-enforced restrictions regarding job opportunities, the Tibetan population is subject to social stigmatization. In this regard, the local population only allows Tibetans to work in certain job roles, such as waiters and street vendors, which narrows the employment options for the Tibetan community within the settlement and the designated Tibetan refugee market area.[331] One of the interview participants working at the Self- Help Centre in Darjeeling Tibetan settlement mentioned about the difficulties her son had to face to get employment. She said, "*my son first work as waiter in many hotels and restaurant but was not getting good pay. He was not happy, his education is BA so he moved to Calcutta for job and now work in call centre. Many young children do not get job here because they are Tibetan and good jobs are only for Gorkha, Nepali and Bhutia community.*"[332]

As discussed previously in this thesis study, Tibetans are treated as aliens in accordance with the Registration of Foreigners Act 1939, and Foreigner's Act of 1946 resulting in restrictions on their mobility, ability to own property and access to employment opportunities. Tibetans in

[329] Personal interview conducted at Sonamling Tibetan Settlement Leh, Ladakh on June 29, 2018.
[330] Personal Interview conducted at Tibetan Cluster Settlement, McLeod Ganj, Dharamshala om January 15, 2021.
[331] Basu, S. (2018). *In diasporic lands : Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.
[332] Personal Interview conducted at Tibetan Refugee Self-Help Centre on February 17, 2021.

India are hindered in their efforts to gain a college education because of unfair admission rules and fees.[333] Multiple participants of my field study expressed concerns on this issue where some universities offer admissions through a "foreigner quota" which has an extremely expensive fee and clearly deters them from enrolling. One of the interview participants said "my *friend applied to take admission in Delhi university and he did not face any discriminatory rule, he got admission in regular quota with normal fee not in the NRI fee category. But this is not the same for everyone, I have other friends too who have got admission in NRI category, and the fee is very high, but did not take admission due to high fee. It is very difficult to take college education here, there is lot of uncertain rules and procedure. I have got admission in private college as regular student, but I have paid more than normal fee, like donation. How does this work? Education is basic right for all."*[334]

The data from my field study shows that majority of the Tibetan participants were employed by the Central Tibetan Administration, Tibetan NGOs, TCV schools and within the Tibetan exile community, with occupations such as selling sweaters, working in the Tibetan Refugee Markets, running small shops or serving in the service industry. A number of individuals had served in the Indian military under onetime contracts, while others were nurses who had worked in medical facilities under yearly contracts before arriving at the Primary Health Centre within the Tibetan Settlements.[335] Surprisingly, the results of my field study also indicates a notable change in the types of employment chosen by Tibetans, from agricultural and handicraft based to various other informal sectors.[336] Nevertheless, majority of the Tibetan exile community, particularly the 2nd and 3rd generation, are limited to either working in the CTA or Tibetan diasporic institutions and businesses, or engaging in informal business and odd jobs, thereby

[333] Phayul. (2020). *JNU Tibetan students urge CTA, MHRD to help resolve 1000% fee hike*. [online] Available at: https://www.phayul.com/2020/09/04/44360/ [Accessed 25 Apr. 2023].
[334] Personal interview conducted at Tibetan Cluster Settlement, McLeod Ganj, Dharamshala on January 14, 2021
[335] Information gathered through personal interaction with Tibetan refugees in Leh, Dharamshala and Darjeeling.
[336] Information gathered through personal interaction with Tibetan refugees in Leh, Dharamshala and Darjeeling. Sharma, V.K., Sharma, N. (2022) A Study of Occupational Structure and Livelihood among Tibetan People in-Exile in India. *Best Journal of Innovation in Science, Research and Development*, 1(1), pp. 11–18. Available at: https://www.bjisrd.com/index.php/bjisrd/article/view/2 (Accessed: 25 April 2023). Phayul. (2010). *Planning Commission releases report on Tibetan demographic survey*. [online] Available at: https://www.phayul.com/2010/12/04/28666/ [Accessed 25 Apr. 2023].

lacking gainful employment corresponding to their educational qualifications, which is a matter of concern for the Tibetan community, especially the younger generation. Consistent with prior research, the findings of this thesis indicate that the primary challenge encountered by Tibetans residing in India is inadequate employment opportunities resulting from restrictive policies prohibiting property ownership, business licensing, access to bank loans, and pursuit of advanced education. [337] Despite the efforts of the CTA to promote self-employment opportunities for Tibetans through providing skill training and small loans for micro-enterprise projects, the needs of the younger Tibetan population remain unmet, particularly those who are educationally qualified and uninterested in manual labor.[338]

The CTA's Demographic Survey 2010 recorded that roughly 3,000 Tibetans were migrating abroad per year, primarily to the West.[339] Participants of my field study, particularly those that were educated, expressed a strong desire to migrate from India in order to find better educational and professional opportunities in the West. Results from this study reflect the findings of Frilund (2019) where majority 2nd and 3rd generation Tibetans in exile experience frequent destabilizing obstructions, making it difficult to sustain a living in India, accepting lower-paying jobs on a temporary basis, not having the proper qualifications to be competitive in the job market, and having issues concerning their indefinite legal standing and documentation all create barriers to their progress in the socio-economic ladder.[340]

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[337] Choedup, N. (2015). From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration. *Arts & Sciences Electronic Theses and Dissertations*. [online] doi: https://doi.org/10.7936/K75D8Q30. [337] Information gathered through personal interaction with Tibetan refugees in Leh, Dharamshala and Darjeeling.

[338] Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023]. Information gathered through personal interaction with Tibetan refugees in Leh, Dharamshala and Darjeeling.

[339] Phayul. (2010). *Planning Commission releases report on Tibetan demographic survey*. [online] Available at: https://www.phayul.com/2010/12/04/28666/ [Accessed 25 Apr. 2023]; Frilund, R. (2017). (Transit) migration via Nepal and India: Tibetans en route to the West. *Migration Studies*, 7(1), pp.21–38. doi: https://doi.org/10.1093/migration/mnx064.

[340] Information gathered through personal interaction with Tibetan refugees in Leh, Dharamshala and Darjeeling. Frilund, R. (2017). (Transit) migration via Nepal and India: Tibetans en route to the West. *Migration Studies*, 7(1), pp.21–38. doi: https://doi.org/10.1093/migration/mnx064; Frilund, R. (2019). Tibetan Refugee Journeys: Representations of Escape and Transit. *Refugee Survey Quarterly*, 38(3), pp.290–313. doi: https://doi.org/10.1093/rsq/hdz007; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment

5.1.3 IMPLEMENTING TIBETAN REHABILITATION POLICY 2014: REVITALIZING TIBETAN COMMUNITY IN INDIA?

Numerous research studies have noted that the initial optimism within the Tibetan exile community regarding the potential for repatriation has absolved the host government from the obligation to formulate a comprehensive long-term policy for exiled Tibetans. This view resulted in the Indian government adopting a "non-assimilative" stance towards the Tibetan people, safeguarding their identity and culture by giving them areas to inhabit various portions of India. Over time, with the expansion of the Tibetan exile community in India, the GoI and the CTA perceived the requirement for a systematized strategy for the settlements to uphold and preserve the Tibetan population, their identity and culture.[341] The Tibetan Rehabilitation Policy 2014 was designed to produce uniformity throughout Tibetan settlements to provide numerous welfare benefits as well as to organize the Tibetan population in India. This policy aimed to supplant the current local-level bureaucratic systems that answered to Tibetan worries about land possession, socio-economic welfare schemes, employment chances, documentation procedures and to close the opportunity gap for most second and third-generation Tibetans living in exile.[342] Although there have been successful re-settlements of Tibetans in India, there have been several issues concerning the ownership of the land that was leased to Tibetan

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of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023]; Frilund, R. (2019). *FROM TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala*. [online] Available at: https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023].

[341] Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi:https://doi.org/10.1080/10357823.2021.1931030; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

[342]Tibetan Rehabilitation Policy, 2014. Available at: https://www.mha.gov.in/sites/default/files/2022-08/FFR_ANNEXURE_A_17092019%5B1%5D.pdf; Reporter, S. (2014). *Government of India formalises Tibetan Rehabilitation Policy 2014*. [online] Central Tibetan Administration. Available at: https://tibet.net/government-of-india-formalises-tibetan-rehabiliation-policy-2014/ [Accessed 25 Apr. 2023]; Choedon, Y. (2017). Challenges to Tibetan Diasporic Institutions in India. *International Studies*, 54(1-4), pp.196–217. doi: https://doi.org/10.1177/0020881718778438; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf.

settlers. Allegations from the local population, district, and state administration of illegal land appropriation by Tibetans and the delivery of eviction notices to Tibetan inhabitants in and around certain settlements were reported.[343]

The Tibetan Rehabilitation policy follows a standardized norm that involves issuing leases with predetermined time frames for all Tibetan settlements. Although the land will not be owned by Tibetan families in the settlement, it will be leased in the name of the CRTC and the leaser, the GoI, for a period of twenty years. Many scholarly works on the rehabilitation of Tibetan exiles have taken into account the use of settlement land as a way to pursue economic ventures, political goals, and the emotional process of identity formation of Tibetans living in India.[344] Taking into account the historical difficulties with land rights and the unequal distribution of welfare benefits, agreement was reached to implement a nationwide policy to increase welfare to allow stateless Tibetans to gain access to rehabilitation services on par with Indian citizens.[345]

[343] Reporter, S. (2013). *Statement on Land Case in Phuntsokling Settlement*. [online] Central Tibetan Administration. Available at: https://tibet.net/statement-on-land-case-in-phuntsokling-settlement/ [Accessed 25 Apr. 2023]. The "forest land case" involved 218 Tibetan families who lived on the road leading to Bhagsu village in Dharamsala. The Tibetan community began in the 1960s, when a large number of Tibetans followed the Dalai Lama to Dharamsala. They began by erecting tin and wood shacks, but these improvised structures were gradually replaced by concrete and brick structures. Despite the fact that many of these people had lived on the farm for over a half-century, they had no documentation proving title. The families were sent with eviction notices in 2012, presumably because the area on which they were living had been designated as forest land. Himachal Pradesh will not expel genuine Tibetans. (2015). *The Times of India*. [online] 26 Feb. Available at: https://timesofindia.indiatimes.com/city/chandigarh/himachal-pradesh-not-to-evict-bonafide-tibetans/articleshow/46376405.cms [Accessed 25 Apr. 2023].

[344] Yasmin, S. (2020). A Socio-economic Study of the Choephelling Tibetan Settlement in Miao, Arunachal Pradesh. *Emerald Publishing Limited eBooks*, pp.115–121. doi: https://doi.org/10.1108/978-1-83982-190-520201013; Basu, S. (2018). *In diasporic lands : Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan; McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, [online] 103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023]; Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi: https://doi.org/10.1080/14631369.2019.1579635.

[345]Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

The CTA and the Indian MHA proposed the formulation of a uniform set of guidelines as the Tibetan Rehabilitation Policy 2014 for all Tibetan settlements in India.[346]

Table 5.1. Tibetan Rehabilitation Policy, 2014

Amenities	Description
Land	Issuance of Rent Tenancy Certificate: State govt's lease document for the Tibetan settlement for a period of 20 years.
Benefits	The extension of benefits from centrally supported and state programmes by the state governments like NRHM(National Rural Health Mission), RAY (Rajiv Awas Yojna), NRLM (National Rural Livelihood Mission), Indira Awas Yojana, (LAY), NFSA (National Food Security Act), TPDS (Targeted Public Distribution System),NREGA, etc
Basic amenities	In or around the Tibetan Settlements, the states are required to provide basic services including as roads, electricity, and drinking water schemes.
Economic benefits	Implement training programmes and skill development for Tibetan refugees. To give permission to run Tibetan markets to trade in Tibetan products like handloom, handicrafts etc. Qualified professional among the Tibetan Refugees should be permitted to take up employment opportunities in private and non-Government Sectors. States must permit the refugees to carry out economic activities as they desire, and to that trade licenses/permission be provided

The comparison of the findings with those of other studies serves to validate that the TRP 2014 effectively addresses the legal disadvantages faced by Tibetans, enabling them to acquire necessary documents such as business permits, driving licenses, and trade licenses, all based on their possession of the RC. As a result, Tibetan exile individuals in India are empowered to engage in lawful economic activities. However, the stipulations of the TRP are designed and

[346] Tibetan Rehabilitation Policy, 2014. Available at: https://www.mha.gov.in/sites/default/files/2022-08/FFR_ANNEXURE_A_17092019%5B1%5D.pdf; Reporter, S. (2014). *Government of India formalises Tibetan Rehabilitation Policy 2014*. [online] Central Tibetan Administration. Available at: https://tibet.net/government-of-india-formalises-tibetan-rehabiliation-policy-2014/ [Accessed 25 Apr. 2023].

structured as instructions and recommendations that are not legally binding, thus allowing the state to have control overextending welfare services. The association between the inhabitants of a state and the Tibetans living in the state is of vital importance for the policy implementation. In consequence, the policy can only be implemented depending on the social, political, and economic components of the state. The lack of a unified interpretation of the Tibetan Rehabilitation Policy 2014 has caused difficulty in its widespread implementation, with only 5 states (Sikkim, Arunachal Pradesh, Himachal Pradesh, Uttarakhand, and Karnataka) having accepted it. [347]

The findings from my field study indicate that a significant number of Tibetans were aware of the TRP as a substantial initiative by both the GoI and the CTA to offer welfare benefits. Respondents in Leh and Darjeeling praised this step towards Tibetan rehabilitation, however, they were disappointed that the policy had not been implemented in their state. An official from the Sonamling Tibetan Settlement office, Leh said, "*it has taken too long for the implementation of this policy. Here in State of Jammu and Kashmir there is no talk about the Tibetan Rehabilitation Policy because they have their own state laws and there is no coordination between central and state authority. What is the use of this policy if it cannot be universally implemented?" [348]*Another informant from Darjeeling mentioned, "*all of us have RC here, and Aadhaar card also but we do not get as much welfare benefit from the Indian Government. TRP shows we can get jobs and business permission, but West Bengal state has not implemented the policy."*[349] The responses from the Tibetan exile population as a result of my field study make it plain to see that even though the policy is sympathetic and aims to help Tibetans in India achieve the same level as Indian citizens, with socio-economic mobility and assistance for livelihoods, it has not been beneficial for the Tibetan community because of a lack of awareness

[347] Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023]; TIBET'S STATELESS NATIONALS III: TIBETAN REFUGEES IN INDIA. (2016). Available at: https://www.bu.edu/law/files/2016/09/Tibets-Stateless-Nationals-II-FINAL-report.pdf [Accessed 25 Apr. 2023].
[348] Personal Interview with Tibetan official at the Sonamling Tibetan Settlement Office, Leh (Ladakh), conducted on August 22, 2018.
[349] Personal Interview conducted at Tibetan Refugee Self-Help Centre, Darjeeling on February 20, 2021.

and uneven implementation. While respondents from Leh and Darjeeling were dissatisfied with how respective state governments have failed to effectively implement the welfare benefits enlisted under the Tibetan Rehabilitation Policy, 2014. However, the response from participants in Dharamshala both CTA officials and common Tibetans highlighted that due to the imposing presence of the CTA, it has been possible to negotiate with the Himachal State government to enforce certain welfare provisions for the members of the exilic community. A senior official from the CTA mentioned that Tibetan settlers in McLeod Ganj have been able to possess driving license and business permits to have a better opportunity at self- employment. Documentation procedure for RC, Aadhaar and even IC of Tibetans living in Dharamshala has been rather easy in comparison to both Leh and Darjeeling. Additionally, the issues relating to tenancy lease documents for the settlement land has been partially resolved in through continuous negotiations between the CTA and the Himachal State government. Excepts from common Tibetan settlers in Mcleod Ganj suggest that the welfare schemes for jobs started by the Indian government has to some extent been able to benefit the youth of the Tibetan community, however there still many discrepancies with respect to implementation as there is no transparency of procedures.

The compelling narratives of Tibetans from my interview study along with existing research on the TRP 2014 exhibits a lack of clarity on certain elements of the policy; first, the policy does not provide details as to how the states should carry out the regulations outlined in the policy. The policy is merely a set of instructions with no execution and procedural specifications. Second, there are no definitive timeframes for the distribution of socio-economic benefits stated in the policy, leaving the implementation of the policy to the discretion of the state governments. Third, the policy fails to consider the difficulty Tibetan people have with obtaining ownership or leases of properties in their own names. Finally, there is no mention of the most vital subject relating to Tibetans in India, their legal status under Indian law. This includes not only those Tibetans who do not live in registered settlements but also those who arrived in India between 1979 and 2003 and do not possess a Registration Certificate. This also

means that they would be unable to take advantage of the welfare programs provided for in this policy.[350]

The findings of this study underscore the predictable challenges and complexities that have contributed to the sluggish implementation of this policy. Despite the ongoing conversations between the CTA and the states, most states are not inclined to accept the policy, as in the case of Arunachal Pradesh, local resistance has prevented the implementation process.[351] In my interview with a high-ranking representative from the CTA Dharamshala, multiple causes were unrevealed for the policy not being properly implemented with special emphasis on a considerable structural void in the institutional and bureaucratic system as a major difficulty for the policy's implementation. To begin with, there is an absence of discussion between the two legitimate powers (the GoI, CTA and the MHA). Second, there is a lack of consistency between the state and district/local government operations. The third factor to consider is the relationship between the Central Tibetan Administration, the exiled Tibetan population, and the local population that is affected by the policy, which includes unawareness of the policy.[352]

5.2 PRESERVING AND RE- CREATING DIASPORIC IDENTITY

5.2.1 ESTABLISHING COLLECTIVE IDENTITY OF TIBETANS IN EXILE

Identity is a broad concept that encompasses a wide range of criteria around which groups form. It can be categorized by social class, ethnicity, family ties, national identity, political leanings, voluntary organizations, or religious affiliation. Individual or collective attitudes and actions

[350] Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030. Information gathered during interview conducted at Leh, Dharamshala and Darjeeling.

[351] The Indian Express. (2017). *Tibetan Rehabilitation Policy will not affect Arunachalees : BJP*. [online] Available at: https://indianexpress.com/article/india/tibetan-rehabilitation-policy-will-not-affect-arunachalees-bjp-4821217/ [Accessed 25 Apr. "2023]; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

[352] Personal opinion of a senior official at Tibetan Policy Institute (TPI), Dharamshala. Information gathered during interview conducted at the Central Tibetan Administration, Dharamshala on January 17, 2021.

can be shaped by their social, cultural, or political identity. Different scholars have presented various views on the idea of identity, some proposing it is connected to the inner core and progresses with the person's development, while others think it is constructed through an individual's engagement with their environmental, cultural, and political environment. As a consequence, identity is an adaptable and flexible concept that is molded by the internalization of predetermined historic, cultural, and institutional formations.[353] The identity of refugees as individuals and in groups is shaped by various factors before and after migration, as documented in the literature. Some suggest that refugees have been divested of any individual or collective identities, except for their lack of a state or status. Struggles of great magnitude are faced by them, and the reports they give of sorrow, suffering, and how they adjust while in exile alter the composition and significance of their lives, they are displaced from their former societies, culture, work, language and deprived of components of their past identity and are forced to learn new methods of living and become accustomed to the norms of the host country.

[353]Houston, S. and Wright, R. (2003). Making and remaking Tibetan diasporic identities. *Social & Cultural Geography*, 4(2), pp.217–232. Doi": https://doi.org/10.1080/14649360309062; Hall, S. (n.d.). *Introduction: Who Needs 'Identity'?* [online] Available at:https://pages.mtu.edu/~jdslack/readings/CSReadings/Hall_Who_Needs_Identity.pdf; Morrice, L. (2011). *Being a refugee: learning and identity. A longitudinal study of refugees in the UK*. [online] *sro.sussex.ac.uk*. Trentham Books. Available at: http://sro.sussex.ac.uk/id/eprint/23651 [Accessed 25 Apr. 2023]; ; Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1; Proceedings of the Ninth Seminar of the IATS, 2000. Volume 8: Tibet, Self, and the Tibetan Diaspora. (2002). *BRILL eBooks*. doi: https://doi.org/10.1163/9789004489455; Cox, J. (2019). Social Identity, Economic Interest, and the Formation of Host Attitudes Toward Refugees. *Electronic Theses and Dissertations*. [online] Available at: https://egrove.olemiss.edu/etd/1564. Moustogianni, G. (n.d.). *Tibetan, but not from Tibet A Minor Field Study on Tibetan Diasporic Identity in India*. [online] Available at: https://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=1319633&fileOId=1319634 [Accessed 25 Apr. 2023]; Coelho, J.P. and Somayaji, G. (2022). Tibetan Nationalism and Cultural Homogenisation in Exile: An Interpretation of Institutions and the Public Sphere. *Sociological Bulletin*, 71(2), pp.272–288. doi: https://doi.org/10.1177/00380229221081988 The term "identity" will be understood in the current context in reference to what is popularly known as "Tibetan Identity" within the academic framework and through the narratives of the Tibetan exilic population. As a result, I will not clarify the term's origin, background, or modern construction because it has been adequately enumerated by various researchers in the past. I will instead concentrate on the discourses and narratives surrounding Tibetan identity in exile, as well as the elements that influence the formation and deconstruction of Tibetan identity.

For refugees, being in a consistent state of learning is necessary as they experience unanticipated hurdles in life that transform and assemble their identities.[354]

The notion that refugees are outsiders reveals their transient condition in the asylum state. Their sense of not belonging is linked to the lack of their cultural, social, and political identities. Refugee communities, due to their lack of status in a foreign country and the fundamental desire to belong, often provide internal support and attempt to rediscover their identities in exile.[355] Through the shared experience of pain, difficulties in the host nation, culture and tradition, a powerful collective identity is formed, acting as an essential coping mechanism. From the perspective of a governing body or individual, the endeavor of making and preserving collective memories is achieved through several activities, including sharing of lived experiences, images, and the duplication of traditional and cultural customs and rituals, which would reinforce social solidarity, group connection, and evoke sentiments of recognition.[356] Recollecting and experiencing shared memories, voicing out different views, and highlighting the lived experiences all play a critical role in establishing a collective identity and unifying a group or community.[357]

The Tibetan exile population, under the leadership of His Holiness, the Dalai Lama and the Central Tibetan Administration, have prioritized preserving their cultural and traditional values, which are the central element of their exile identity. The Tibetan community, through implementing refugee settlements, educational organizations, religious monasteries, and observing customary rituals and practices, has been passively perpetuating their identity from their homeland of Tibet while concurrently actively constructing a new identity in exile; one that is self-governed, self-sufficient, and adaptive to the modern world, yet still safeguarding

[354] Morrice, L. (2011). *Being a refugee: learning and identity. A longitudinal study of refugees in the UK*. [online] *sro.sussex.ac.uk*. Trentham Books. Available at: http://sro.sussex.ac.uk/id/eprint/23651 [Accessed 25 Apr. 2023].
[355]Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1.
[356] Malkki, L.H. (1995). Refugees and Exile: From 'Refugee Studies' to the National Order of Things. *Annual Review of Anthropology*, 24(1), pp.495–523. doi: https://doi.org/10.1146/annurev.an.24.100195.002431.
[357]Blight, D.W. (2009). The Memory Boom: Why and Why Now? *Memory in Mind and Culture*, pp.238–251. doi: https://doi.org/10.1017/cbo9780511626999.014.

their cultural heritage.[358] The CTA avows that the aim of every Tibetan in exile is to support the Tibetan struggle in two forms; (1) to pursue justice for their homeland and (2) to conserve their language and identity by practicing their culture and traditions.[359] The Tibetan exile community has been successful in maintaining their culture and traditions, leading to the establishment of a unified national identity. This has been vital in providing individuals with a sense of social identity and a framework to take action and safeguard the cohesiveness of the exile community. By having a national identity, each Tibetan in exile is connected to the community and can have their status in the CTA validated.[360]

The most noteworthy discovery of this study adds to the current research by affirming that the collective experience of displacement and survival in exile among Tibetans has significantly contributed to the reinforcement and perpetuation of their identity as a stateless community. Preserving their culture, customs and language strengthens solidarity, integrity, and a sense of patriotism, as enduring the same experience of migration and resettlement, remembering their collective memories from the past is the only way to keep the hope of returning to their homeland alive.[361] Interviewees from my field study provide personal accounts which showed their firm resolution to uphold their Tibetan identity. Most of those interviewed stated that protecting their identity meant being of assistance to the CTA and displaying allegiance to His Holiness Dalai Lama. A 65-year-old Tibetan from Sonamling Tibetan settlement said that *"I have lived here in this settlement from childhood till now. I feel my true service to my community and vision of HH Dalai Lama is by being Tibetan national living in my community with my*

[358] Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.

[359] Choedup, N. (2015). From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration. *Arts & Sciences Electronic Theses and Dissertations*. [online] doi: https://doi.org/10.7936/K75D8Q30; Frilund, R. (2019). *FROM TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala*. [online] Available at: https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023].

[360]Cox, J. (2019). Social Identity, Economic Interest, and the Formation of Host Attitudes Toward Refugees. *Electronic Theses and Dissertations*. [online] Available at: https://egrove.olemiss.edu/etd/1564 .

[361] Powers, J.M. (2004). *History As Propaganda*. *Oxford University Press New York eBooks*. Oxford University Press. doi: https://doi.org/10.1093/0195174267.001.0001.

Basu, S. (2018). *In diasporic lands: Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan.

people and follow my tradition and culture. I am loyal to my community and CTA. If I remain Tibetan national, I take part in small way for our Tibetan movement. I have hope of going back to Tibet."[362] For him, protecting his identity is synonymous with maintaining his nationality as a Tibetan, which also gives him a sense of belongingness within his community.

While speaking to an official at the Central Tibetan Administration, he unequivocally stated that *"it is in the best interest of the Tibetan community in exile to maintain and preserve their unique identity. It is of utmost importance that every Tibetan must work towards protecting their identity for the purpose of the Tibetan movement, to stay united and loyal to their homeland and the vision of HH Dalai Lama. Also, I feel the global community must see us an organized refugee group in exile working legitimately for our cause to return to our homeland. It is our unique culture and tradition whether by practicing our rituals or language or wearing our traditional dresses that keeps the hope alive within the community to reinforce our status as Tibetan Nationals."*[363]

Multiple scholarly works propose that the notion of 'Tibetan identity' fundamentally incorporates their distinctive culture, traditions, language, and rituals. Contrary to the expectations, during my interactions with the Tibetan community, I noticed there was a deeper significance to the term 'Tibetan identity', which also included preserving their stateless/ exile status and not seeking rights of citizenship in India. The Central Tibetan Administration, along with most of the exile population, exhibits a strong sense of nationalism and patriotism that is manifested in the preservation of their culture and traditions and the refusal to acquire Indian citizenship; this is seen by them as a sign of loyalty to His Holiness the Dalai Lama, the CTA, and their community. One of my informants candidly stated that *"getting Indian citizenship would mean that I would no more be Tibetan national. It means I am not loyal to my people and all the hard work done by HH Dalai Lama and the CTA will be waste. I also want to live in my community and not become an outsider."*[364] Hence, the findings of my study align with

[362] Personal Interview conducted at Sonamling Tibetan Settlement, Leh (Ladakh) on July 25, 2018.
[363] Personal Interview of a senior official at Central Tibetan Administration, McLeod Ganj, Dharamshala on January 20, 2021.
[364] Personal Interview conducted at Sonamling Tibetan Settlement, Leh (Ladakh) on June 5, 2018.

recent research, indicating that Tibetan identity not only relates to the cultural and social dimensions of belonging to the exile community, but also plays a crucial role in establishing the legal status of the Tibetan exile community, recognized as Tibetan Nationals by the CTA and as Foreigners by the GoI. The concept of collective memory is highly significant in the development of a shared vision of a "home" as a shared goal. While the elder generation of Tibetan exiles view their homeland as a place of childhood memories, the younger generation of Tibetans born in India perceive it as a kind of utopia.[365]

5.2.2 RE-CREATING DIASPORIC IDENTITY: TIBETAN YOUTH TORN BETWEEN ASPIRATION AND RESPONSIBILITY?

The findings of this thesis study validate the ideas of several scholars who have observed that over years, the Tibetan government and community in exile have developed a shared identity, primarily to address the diversity within the group and eliminate any friction caused by intra-group marginalization, regional socio-economic inequality, and group exclusion in the context of seeking citizenship rights, as well as arbitrary policies and rules enacted or not enacted by the GoI. The Tibetan people in exile have maintained a commitment to preserving their identity as a peaceful, religious, industrious, and well-organized refugee population, which surpasses any factional, regional, and political identities. While majority of Tibetan exile narratives from my field interview , particularly those of first-generation Tibetans born in Tibet, situate and explain individual lives through a joint and shared memory that highlights their exile journey and the pain they experienced. However, an unexpected outcome of this study was that the reality is not the same for those of the 2nd and 3rd generations of Tibetans who were born in India and have not been to Tibet but only heard of the experiences and imagined notion of Tibet recounted by the elders of the community. Based on the available academic literature on

[365]Anand, D. (2000). (Re)imagining nationalism: Identity and representation in the Tibetan diaspora of South Asia1. *Contemporary South Asia*, 9(3), pp.271–287. doi: https://doi.org/10.1080/713658756; Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459; Bentz, A.-S. . (2012). Being a Tibetan Refugee in India. *Refugee Survey Quarterly*, 31(1), pp.80–107. doi: https://doi.org/10.1093/rsq/hdr016. McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, [online] 103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023

Tibetans in India, it was anticipated that the preservation of diasporic identity through the rejection of Indian citizenship would be the apparent and unifying choice for the exilic community. Nevertheless, through the examination of 1st, 2nd, and 3rd generation Tibetans in various locations, it was observed that while the 1st generation Tibetans, as anticipated, prioritized preserving their Tibetan identity by rejecting citizenship rights, the majority of the 2nd and 3rd generation did not associate the preservation of their diasporic identity or Tibetaness with citizenship rights. The findings indicate that the 2nd and 3rd generation Tibetans exhibited a greater inclination towards embracing Indian citizenship and pursuing their individual aspirations, rather than focusing on the collective preservation of their Tibetan community's identity which is a surprising result, given that Tibetans perceive themselves to be tightly knit and their sense of belonging is deeply rooted in their exiled community.

The possible explanation for this could be that for Tibetan youth who were born in India, the understanding of Tibet as a country and the longing to return to their original home does not originate from the first-hand experiences of the difficulties of having to leave their homeland and living in exile, as is the case for the first generation of Tibetans. This unified identity of working peacefully for the Tibetan movement has been created by the teachings that have been passed down to them over the years, combined with the work of HH the Dalai Lama, the CTA and the countless Tibetans in their community.[366] Thus, the India-born Tibetan youth is too young to be accountable for constructing the exiled nation, yet they have been compelled to symbolize the expectation of the exilic leadership for hope and discipline.[367]

[366] Information gathered through interviews conducted in Leh, Dharamshala and Darjeeling. P Christiaan Klieger. (2002). Proceedings of the Ninth Seminar of the IATS, 2000. Volume 8: Tibet, Self, and the Tibetan Diaspora. (2002). *BRILL eBooks*. doi: https://doi.org/10.1163/9789004489455; Anand, D.L. (2002). A Guide to Little Lhasa in India: The Role of Symbolic Geography of Dharamsala in Constituting Tibetan Diasporic Identity. *BRILL eBooks*, pp.11–36. doi: https://doi.org/10.1163/9789004489455_004.

[367]Chen, S.T. (2012). When 'exile' becomes sedentary: on the quotidian experiences of 'India-born' Tibetans in Dharamsala, north India. *Asian Ethnicity*, 13(3), pp.263–286. "doi: https://doi.org/10.1080/14631369.2012.630568; Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, [online] 74(1), pp.167–192. Available at: https://www.jstor.org/stable/43610656 [Accessed 5 Aug. 2022]; Frilund, R. (2019). *FROM TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala*. [online]" Available at:

A rather intriguing result of my research study is the existing ideological gap regarding identity, between the older Tibetans and the younger generation (particularly those born in India). The 2nd and 3rd generation of Tibetans have their own sense of identity, which is shaped by factors like spatial distribution, economic differentiation, sectarian and regional backgrounds, as well as generational gaps. The idea of cultural and traditional identity, as is often seen amongst older Tibetans, has become a political and legal identity for the newer generations of Tibetans. As suggested through this study and other scholarly works, for younger generation Tibetans being a Tibetan national is more than just a feeling of unity and a connection to the Tibetan community, or following their religious and cultural practices, but rather taking an active role in politics related to the Tibetan movement internationally and being able to bring about socio-economic mobility.[368]

The research findings consistently highlight the notion that both second and third generation Tibetans perceive political involvement during their exile in India or other countries as an essential component of their Tibetan identity. It is significant to note that while the majority of informants in all three field sites were aware of the importance of maintaining their identity, those in Dharamshala particularly emphasized the necessity of raising awareness of the Tibetan cause through political activism compared to Leh and Darjeeling. It is believed that the Tibetan youth's engagement in political affairs was an essential element in preserving Tibetan identity. A compelling observation made during my comparative field study emphasized that Tibetans in Leh and Darjeeling demonstrated a heightened reticence when it came to safeguarding their cultural identity. For them, adhering to their culture and traditions through their everyday lifestyle appeared to be enough to sustain their Tibetan identity, and direct political engagement in the Tibetan movement was not a priority. This could be ascribed to the fact that a significant

https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023].

[368] Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, [online] 74(1), pp.167–192. Available at: https://www.jstor.org/stable/43610656 [Accessed 5 Aug. 2022]; Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013

majority of them are first-generation refugees, born in Tibet, and possess a strong connection to the cultural and political heritage of Tibet. Moreover, the physical distance from organizations associated with the Tibetan movement, such as the Tibetan Youth Congress and Tibetan Women's Association the Student for Free Tibet India, based in Dharamshala, could have been a contributing factor.

Informants from my field study in Dharamshala, especially 2nd and 3rd generation, were more politically motivated as most of them worked full - part time or as volunteers in the above-mentioned offices and spoke about their participation in protest marches and political rallies for Tibet. One of my informants, 3rd generation, volunteer at the Tibetan Youth Congress (TYC) stated that *"I feel it our duty as the youth of our community to carry forward the vision and legacy of our elder generation. But I feel we must change with times and now it is time to create awareness about our Tibetan cause and struggle in an effective manner and that is when every young Tibetan should be politically aware and active in our freedom struggle. I feel we can be more connected as a community living exile with one objective of participating in discussions, rallies and discourse on our Tibetan movement. Our ancestors did not only choose but were helpless to live marginally while protecting our culture and religion. But I believe today we can improve our socio-economic status; choose a stable life through better education and employment opportunities or apply for membership rights (citizenship in India or abroad) and still work towards our Tibetan freedom movement."* [369]

The findings of this study make a significant contribution and offer a new perspective to the existing research on Tibetan communities in India. The study clearly demonstrates the existing disparities in values between the first and second, as well as the third generation of Tibetans in exile and those living in the Tibetan settlements of Leh, Darjeeling, and Dharamshala. The articulation of Tibetan identity amongst the diaspora has been shaped by the majority demographics of the Tibetan settlements, organizations like Tibetan Youth Congress and Student for Free Tibet, access to education, employment, and interactions with the local host

[369] Personal interview conducted at Tibetan Youth Congress office, McLeod Ganj, Dharamshala on January 17, 2021.

community, and political activism concerning the Tibetan cause. The way of life of the older and the current Tibetan generations varies, as the earlier generation was satisfied with living as a marginalized group with little to no resources, as long as they could preserve their distinct culture even in exile. Nevertheless, the 2nd and 3rd generation Tibetans are in a dilemma between obligation and desire. Despite the genuine desire to keep the Tibetan culture and identity alive at any cost, for most of the second and third generation Tibetans in exile, striving for their own individualistic dreams has taken priority.[370]

5.3 INTERPRETING SENSE OF BELONGING WITHIN THE TIBETAN COMMUNITY

Different viewpoints can be used to comprehend the notion of belonging in the refugee population. First, the establishment of a sense of belonging based on the familiarity of their home which helps refugee communities to form their own identities and maintain their existence during their exile. Second, the sense of returning to their homeland keeps the refugee community inspired and connected to the politics of their homeland. Finally, belonging based on the notion of integration or assimilation in the host country, seeking rights and legal recognition that is equivalent to the citizens of the nation-state.[371] Studies show that the mental and emotional tribulations that migrants go through while attempting to re-adjust socially, culturally, and physically to their setting affect the sense of belonging that an exile community desires. Maintaining the past attachments of recognition and network may be associated with belonging, but it also involves prompt shifts in objects of acknowledgement, social relations, and links to conform to the new environment. Refugees may use a sense of belonging as a

[370] Choedup, N. (2015). From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration. *Arts & Sciences Electronic Theses and Dissertations*. [online] doi: https://doi.org/10.7936/K75D8Q30; Thapa, S. (2019). FLEXIBLE LIMINALITY AMONG THE TIBETAN DIASPORA: TIBETAN EXILES ADJUSTING CULTURAL PRACTICES IN DHARAMSALA, INDIA AND THE UNITED STATES. *Theses and Dissertations--Anthropology*. [online] doi: https://doi.org/10.13023/etd.2019.023; Frilund, R. (2019). *FROM TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala*. [online] Available at: https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023].

[371] Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1.

method of coping, focusing on four basic elements which are connectedness, participation, identification, and congruence.[372]

The sense of belonging felt by the Tibetan exile diaspora fits in with all of the categories listed earlier. Gaining an understanding of the experience of belonging in the Tibetan context can provide knowledge of the circumstances that Tibetans in exile have developed for themselves in India, and not just their emotional attachments to their homeland and people, but their sentiments for the surrounding area and the local inhabitants.[373] Findings of my research on Tibetan offers a captivating point of view with regards to a sense of belonging, as it demonstrates the level at which Tibetans in exile feel comfortable in their host nation, India. At the same time, creating a sense of belonging and a personal identity within the Tibetan community which serves as a source of connection. There is a disparity in the sense of belonging experienced between the older and newer generations of Tibetans. While the older Tibetans view it as a method of maintaining collective identity, staying connected to their roots, homeland and community in exile, and having a voice in the Central Tibetan Administration. However, the younger (2nd and 3rd generation) Tibetans have moved a step ahead and define their sense of belonging in context of their interaction, reception, and integration with the local population- while extensively debating their claim to Indian Citizenship with the GoI, CTA and within their community.

During the course of my field study, a number of 2nd -generation Tibetans raised the issue of inclusion in the context of their entitlement to citizenship and membership. A 2nd generation

[372] Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1; Grent, A. (2018). Sense of belonging among Tibetan refugees in India: A case study of the Bylakuppe settlement in Karnataka State. *studenttheses.uu.nl*. [online] Available at: https://studenttheses.uu.nl/handle/20.500.12932/30852 [Accessed 26 Apr. 2023]. Fuchs, L.M., Jacobsen, J., Walther, L., Hahn, E., Ta, T.M.T., Bajbouj, M. and von Scheve, C. (2021). The Challenged Sense of Belonging Scale (CSBS)—a validation study in English, Arabic, and Farsi/Dari among refugees and asylum seekers in Germany. *Measurement Instruments for the Social Sciences*, 3(1). doi: https://doi.org/10.1186/s42409-021-00021-y.

[373] Chen, S.T. (2012). When "exile becomes sedentary: on the quotidian experiences of 'India-born' Tibetans in Dharamsala, north India. *Asian Ethnicity*, 13(3), pp.263–286. doi: https://doi.org/10.1080/14631369.2012.630568; Grent, A. (2018). Sense of belonging among Tibetan refugees in India: A case study of the Bylakuppe settlement in Karnataka" State. *studenttheses.uu.nl*. [online] Available at: https://studenttheses.uu.nl/handle/20.500.12932/30852 [Accessed 26 Apr. 2023].

Tibetan, born and raised in McLeod Ganj, asserted that, *"I live in my community and actively work for the Tibetan movement, I practice my culture and traditions. For me a sense of belonging is both within my community and here in McLeod Ganj with my local friends and their culture. I feel at home here. India is the only home I know, and I have lived in and because of that I feel I have a rightful claim to Indian citizenship. But I am not eligible according to the Indian citizenship laws. What should I do? And there are many more youth like me who are not in the category of applying for Indian citizenship, but we want to, for better standard of living. I feel I belong here as I have lived all my life here. I see Tibet as my homeland, but I have never been there, and I do not know if I will. Many older people of my community feel we who want Indian citizenship are not loyal to our Tibetan government and HH Dalai Lama, but that is not true. We have different priorities but same goal of a free Tibet."*[374]

On the other hand, participants of my field research, especially first-generation Tibetans, agreed that a sense of belonging was found in being surrounded by their people and living with their community, which also helped them maintain a tie to their origin and roots. For them, it was the only way to stay loyal and committed to the CTA and HH Dalai Lama. When asked about their opinion on Tibetans in exile applying for Indian citizenship, one of my informants a 1st generation Tibetan, living in Leh settlement, since his arrival said that *"I have lived my life here in Leh since I was a child when I came till now. I have many local friends, and this is my second home. I do not need Indian citizenship, I am Tibetan. Our government also wants us to be Tibetan national. Kids in our community now want better jobs and education so they are taking Indian citizenship. but it is not same- they are not true Tibetan people. HH Dalai Lama also is not India citizen and gives us hope to go back to our homeland Tibet. I must be loyal to HH Dalai Lama vision."*[375] For most of the older Tibetans, sense of belonging is within their settlement, community, and their government. While they appreciate the hospitality of the local population, which makes them feel at home within the territorial domains of their existence.

[374] Personal Interview conducted at McLeod Ganj, Dharamshala on January 11, 2021.
[375] Personal Interview conducted at Sonamling Tibetan Settlement, Leh (Ladakh) on May 14, 2019.

However, essentially belonging for them is synonymous with their roots in Tibetan culture, their homeland Tibet, and their collective identity as a community in exile.

The present research study supplements previous scholarly works which suggest taking into account the concept of 'belongingness' and 'rootedness' when assessing the rights of membership/ citizenship with regard to Tibetans in exile and Tibetan Nationality. Findings of this thesis study shows that sense of belonging plays a significant part in constructing the decision of majority Tibetans in exile, whether to claim Indian Citizenship or continue to being a Tibetan national and part of the Tibetan exile community. Additionally, belongingness for Tibetans is linked to their membership in their group and is validated through the collective identity and involvement in their exiled community. This is established by the comparable past occurrences, identity, language, culture, and so forth that they have in common.[376] While it is an argumentative issue whether refugees or non-members should renounce their identity or connection to their community in order to acquire the citizenship of the host nation and attain basic human rights of safety, subsistence and livelihood. A strong case could be made through the findings of this study as well as existing literature, contextualizing the Tibetan exilic scenario in India. In the absence of specific refugee/ asylum legislation, that refugees ought to be granted basic rights which primarily begins with recognizing their legal status, irrespective of their accepting citizenship and forsaking their identity. Majority of the Tibetan exile community are unwilling to accept formal citizenship but desire a status that could provide

[376] Falcone, J. and Wangchuk, T. (2008). 'We're Not Home': Tibetan Refugees in India in the Twenty-First Century. *India Review*, 7(3), pp.164–199. doi: https://doi.org/10.1080/14736480802261459. Houston, S. and Wright, R. (2003). Making and remaking Tibetan diasporic identities. *Social & Cultural Geography*, 4(2), pp.217–232. doi: https://doi.org/10.1080/14649360309062; Chen, S.T. (2012). When 'exile' becomes sedentary: on the quotidian experiences of India-born Tibetans in Dharamsala, north India. *Asian Ethnicity*, 13(3), pp.263–286. doi: https://doi.org/10.1080/14631369.2012.630568. McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, [online] 103(4), pp.967–983. Available at: https://www.jstor.org/stable/23485681 [Accessed 24 Apr. 2023]; Basu, S. (2018). *In diasporic lands : Tibetan refugees and their transformation since the exodus*. Hyderabad: Orient Blackswan; Coelho, J.P. and Somayaji, G. (2022). Tibetan Nationalism and Cultural Homogenisation in Exile: An Interpretation of Institutions and the Public Sphere. *Sociological Bulletin*, 71(2), pp.272–288. "doi: https://doi.org/10.1177/00380229221081988;; Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1; Grent, A. (2018). Sense of belonging among Tibetan refugees in India: A case study of the Bylakuppe settlement in Karnataka State. *studenttheses.uu.nl*. [online] Available at: https://studenttheses.uu.nl/handle/20.500.12932/30852 [Accessed 26 Apr. 2023].

them with essential human dignity, defend their essential sources of subsistence, and defend them against arbitrary treatment from state representatives.[377]

5.4 TIBETAN NATIONALITY VS INDIAN CITIZENSHIP

It has been noted by several scholars that the comprehension of citizenship in the present era can be segmented into four sections: status, rights, communal, and identity. Status is an individual's legal standing and citizenship established by law. The second type of citizenship involves enjoying the benefits of rights and privileges. Last, political engagement by citizens and citizenship as an indicator of identity and affiliation are included in the notion of social citizenship. Researchers have discussed the relevance of being part of a group and the capability to adjust to the modifications brought by globalization in understanding nationality-based-membership, particularly to accommodate refugees within the framework of citizenship rights. While conventional perspectives of citizenship have been restricted to a formal-national-membership that normally emphasizes the rights of citizens above those of non-citizens and has not addressed the rights of the stateless and refugees, non-nationals, and aliens.[378]

It is a consensus among numerous scholars of the globalization period that old theories of citizenship that fail to include immigrants, aliens, and refugees should make way for a more

[377]Information gathered through interview conducted at Leh, Dharamshala and Darjeeling. Adams, W.F. (2005). Tibetan refugees in India: integration opportunities through development of social, cultural and spiritual traditions. *Community Development Journal*, [online] 40(2), pp.216–219. Available at: https://www.jstor.org/stable/44257875 [Accessed 5" Aug. 2022]. Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, 74(1). doi: https://doi.org/10.18874/ae.74.1.08; McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, 103(4), pp.967–983. doi: https://doi.org/10.1080/00045608.2011.628245; McGranahan, C. (2016). Refusal and the Gift of Citizenship. *Cultural Anthropology*, 31(3), pp.334–341. doi: https://doi.org/10.14506/ca31.3.03. Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi: https://doi.org/10.1080/14631369.2019.1579635; Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013.

[378] Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1; Bosniak, L. (2006). *The Citizen and the Alien: Dilemmas of Contemporary Membership*. [online] *JSTOR*. Princeton University Press. Available at: https://www.jstor.org/stable/j.ctt7s254 [Accessed 18 Jan. 2023].

comprehensive, pluralistic comprehension of citizenship which should take into consideration the juridical, factual, political and civil, as well as socio-economic rights of immigrants, non-nationals, refugees, aliens based on recognition of identity, duration of their residence in the host nation and valid need for asylum. As opposed to using it as a way to deny access, based on a state-centric and rights-based comprehension of citizenship, which would deny non-members from joining the polity due to their nationality, ethnicity, language, etc. Recent literature has presented a sound argument in favor of granting rights to non-citizens, particularly with regards to refugees, and has emphasized the need for refugees to receive recognition or status, even if it is not necessarily official status.[379]

The current study supports the assertions of previous notable research that the demand of Tibetan exiles for Indian citizenship is entangled in a complex web of politics within the exile community, aimed at preserving their identity and sense of belonging. Tibetans in exile in India find themselves between two distinct laws, policies and institutions with regards to citizenship, those being the Charter for Tibetans in Exile of the CTA and the Indian legal system of the GoI as CTA Citizenship Act of 2003. The CTA has offered Tibetan Citizenship (ownership of Green Book) to the majority of Tibetans, but a considerable number of 2nd generation Tibetans born in India are eligible and some have been able to acquire Indian Citizenship. It is perhaps an interesting observation and needs further investigation that Tibetan citizenship bestowed upon

[379] Chowdhory, N. (2018). *Refugees, Citizenship and Belonging in South Asia*. [online] Singapore: Springer Singapore. doi: https://doi.org/10.1007/978-981-13-0197-1; Bosniak, L. (2006). *The Citizen and the Alien: Dilemmas of Contemporary Membership*. [online] *JSTOR*. Princeton University Press. Available at: https://www.jstor.org/stable/j.ctt7s254 [Accessed 18 Jan. 2023]. Shachar, A., Bauböck, R., Bloemraad, I. and Vink, M. eds., (2017). *The Oxford Handbook of Citizenship*. Oxford University Press. doi: https://doi.org/10.1093/oxfordhb/9780198805854.001.0001; Chung, E.A. (2017). Citizenship in Non-Western Contexts. *The Oxford Handbook of Citizenship*, pp.430–452. doi: https://doi.org/10.1093/oxfordhb/9780198805854.013.19; Bosniak, L. (2000). Citizenship Denationalized (The State of Citizenship Symposium). *7 Indiana Journal of Global Legal Studies 447 (2000)*, [online] 7(2). Available at:https://www.repository.law.indiana.edu/ijgls/vol7/iss2/2?utm_source=www.repository.law.indiana.edu%2Fijgls%2Fvol7%2Fiss2%2F2&utm_medium=PDF&utm_campaign=PDFCoverPages [Accessed 26 Apr. 2023]; Benhabib, S. (2004). The Rights of Others. [online] doi: https://doi.org/10.1017/cbo9780511790799; Lori, N.A. (2017). Statelessness, 'In-Between' Statuses, and Precarious Citizenship. *The Oxford Handbook of Citizenship*, pp.742–766. doi: https://doi.org/10.1093/oxfordhb/9780198805854.013.32; Tilly, C. (1995). Citizenship, Identity and Social History. *International Review of Social History*, 40(S3), pp.1–17. doi: https://doi.org/10.1017/s0020859000113586; Bosniak, L.S. (2000). Universal Citizenship and the Problem of Alienage. *SSRN Electronic Journal*. doi: https://doi.org/10.2139/ssrn.232049.

those in exile has implications beyond mere access to material benefits and membership within the exile community, as it is also linked to a sense of the belongingness and loyalty to the Tibetan cause.[380]

5.4.1 ELIGIBILITY AND OBSTACLES TO EXERCISE CITIZENSHIP RIGHTS IN INDIA

The Indian Constitution empowers Parliament to regulate citizenship and naturalization. Parliament passed the Citizenship Act of 1955,[381] which, as revised in 1986 & 2003, governs how citizenship can be obtained after the Constitution's effective date. Section 3 governs citizenship by birth and states, among other things, that anybody born in India "shall be a citizen of India by birth" if they satisfy the qualifications listed below:

born in India—

(a) before the 1st of July, 1987, but on or after the 26th of January, 1950.

(b) born on or after July 1, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), and either of his parents is an Indian citizen at the time of his birth;

(c) He will be considered an Indian citizen by birth on or after the Citizenship (Amendment) Act, 2003 (6 of 2004) takes effect, provided that either I both of his parents are Indian citizens,

[380]McConnell, F. (2013). Citizens and Refugees: Constructing and Negotiating Tibetan Identities in Exile. *Annals of the Association of American Geographers*, 103(4), pp.967–983. doi: https://doi.org/10.1080/00045608.2011.628245; McGranahan, C. (2016). Refusal and the Gift of Citizenship. *Cultural Anthropology*, 31(3), pp.334–341. doi: https://doi.org/10.14506/ca31.3.03; Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, 74(1). doi: https://doi.org/10.18874/ae.74.1.08; Yamamoto, T. (2018). Citizenship In-between: A Case Study of Tibetan Refugees in India. *Law and Democracy in Contemporary India*, pp.85–112. doi: https://doi.org/10.1007/978-3-319-95837-8_4; Seetharaman, A. (2020). Tibetan Refugees in India: The Challenges of Applying for Indian Citizenship. [online] (54), pp.95–113. Available at: https://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_54_05.pdf [Accessed 25 Apr. 2023].

[381]THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: "https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019.pdf.

or (ii) at least one of his parents is an Indian citizen and the other is not an illegal immigrant at the time of his birth.[382]

Section 3 of the Citizenship Act of 1955 seems to provide a certain subset of Tibetans living in India the opportunity to attain citizenship. Nevertheless, Tibetan individuals born between those years have had their claims for Indian passports and citizenship regularly denied, and they are seen as foreigners subjected to the Registration of Foreigners Act of 1939 and the Foreigners Act of 1946. The incapacity of Tibetans, even those born between 1950 & 1987, to receive citizenship has remained unchanged in spite of various High Court decisions granting them entitlement to citizenship. Notable rulings from the High Court of India include Namgyal Dolkar v. Government of India MEA, Tenzin Choephag Ling Rinpoche v. Union of India, and Lobsang Wangyal v. Union of India.[383]

While conducting my field study in Dharamshala, I had the privilege of interviewing Ms. Namgyal Dolkar, an individual of Tibetan heritage who was born in India and hails from a well-known noble Tibetan lineage. Notably, she is the first Tibetan to obtain Indian Citizenship. She is presently a member of the Tibetan Parliament-in-Exile and also the President of the Gu Chu Sum (political Prisoners of Tibet Movement). During the interview with Ms. Dolkar, she revealed that she had to struggle to acquire Indian citizenship, as she was denied various employment opportunities, like a role as an English lecturer at a university, due to her foreigner status. She was not eligible to take the recruitment exam for the job without being an Indian citizen. The MEA, Government of India declined her application for an Indian passport based

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[382] THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019.pdf.

[382] The Citizenship (Amended) Act, No 5 of 1986 , The Citizenship (Amended) Act, 2003. THE CITIZENSHIP ACT, 1955, THE CITIZENSHIP ACT, 1955 _____ ARRANGEMENT OF SECTIONS _____ SECTIONS. (n.d.). Available at: https://indiancitizenshiponline.nic.in/UserGuide/Citizenship_Act_1955_16042019".pdf.

[383] United Nations High Commissioner for Refugees (2010) *Namgyal Dolkar v. Government of India, Ministry of External Affairs, Refworld*. Available at: https://www.refworld.org/cases,IND_HC,52ca85264.html (Accessed: April 26, 2023); United Nations High Commissioner for Refugees (2013) *Tenzin Cheophag Ling Rinpoche v. Union of India, Refworld*. Available at: https://www.refworld.org/cases,IND_HC,52ca86c24.html (Accessed: April 26, 2023). *Lobsang Wangyal vs Union of India & Ors on 22 September, 2016* (2016). Available at: https://indiankanoon.org/doc/90529177/ (Accessed: April 26, 2023).

on section 3 (1) (a) of the Indian Citizenship Act 1955 as she was classified as a Tibetan National based on the Registration Certificate and Identity Certificate she presented, and the GoI not allowing dual citizenship. Ms. Dolkar took her rejection to the Delhi High Court in an attempt to demonstrate the legality of her Indian citizenship. Ms. Dolkar reported that even with the successful outcome of the case, the process was extremely laborious. The Delhi High Court issued a judgement in her favour and articulated that everyone born in India from the 25th January 1950 to the 1st July 1987 is lawfully a citizen of India as stated in the Citizenship Act 1955 and can obtain an Indian passport as proof of Indian citizenship.[384]

Another judgement from the High Court which gave Tibetan, Indian citizenship included "Tenzin Choephag Ling Rinpoche", who was born in Dharamsala in the year 1985. Following an advisory from the MHA, the Regional Passport Office negated his application for a travel grant. The Ministry maintained that Tibetans had not fulfilled the conditions for citizenship as per Section 3 of the Citizenship Act, regardless of their birth in India between 1950 & 1987. In August 2013, the High Court of Karnataka decided based on the Dolkar case that anyone born in India between the 26th of January 1950 and the 1st of July 1987 are Indian citizens, as stated in the Citizenship Act.

Mr. Lobsang Wangyal, a journalist, activist, and the organizer of the "Miss Tibet Pageant", is a notable example of an influential Tibetan. He took legal action in the form of a Public Interest Litigation case in 2016 and succeeded in obtaining an Indian passport from the Union of India. In my interview with Mr. Wangyal, he asserted that *"there have been many highlighted cases of Tibetans trying to get Indian passport. But the procedure is still very difficult and costly as we have to go court every time even when we are eligible by birth. For an ordinary Tibetan national with low income even if he or she is eligible to get Indian passport it is financially draining. I try and help as many people in my community as I can who want to apply for Indian passport."*[385]

[384] Personal Interview with Ms. Namgyal Dolakr conducted at McLeod Ganj, Dharamshala on January 14, 2021.
[385] Personal Interview with Mr. Lobsang Wangyal conducted at McLeod Ganj, Dharamshala on January 15, 2021.

According to the judgement given in the Lobsang Wangyal case by the Delhi High Court in 2016, the MEA, GoI, has been issuing Indian Passports to Tibetan refugees who meet the conditions mentioned in the Citizenship Act 1955 from March 2017 onwards. However, findings from my study show that ground reality for Tibetans seeking Indian citizenship rights has not changed. Tibetans are subjected to arbitrary procedural rulings, for instance, in June 2017 the RPO in Bangalore released a ruling stating that Tibetans who apply for Indian citizenship should abide by the following four criteria. 1) Tibetans are required to give up their IC and RC cards; 2) Tibetans are not permitted to return to their original refugee settlements; 3) Tibetans are required to present a written document renunciating CTA benefits; 4) Tibetans are also required to present a written document renunciating benefits from the RC and IC cards..[386] Owing to the unfair and biased regulations and protocols, numerous eligible Tibetans are deterred from applying for Indian citizenship, in addition to the fear of being ousted from their community with no help from the CTA.

The present thesis study along with my field experience indicate that The Citizenship Act 1955 is silent about citizenship rights for those Tibetans who are born in India, after 1 July, 1987. There is in fact a significant number of Tibetans 2nd and 3rd generation who are excluded from claiming citizenship rights by virtue of not falling within the criteria under the provision of the Citizenship Act, even when they are born in India. Additionally, Tibetans were not able to acquire citizenship through naturalization and there has been no record of it ever happening. The recent CAA, 2019 grants citizenship through naturalization to certain minority groups of illegal migrants such as Sikh, Hindu, Buddhist, Parsi, Jain, and Christian from Afghanistan, Pakistan, and Bangladesh who had to flee to India due to religious persecution.[387] It is evident

[386]Hindustan Times. (2017). *Govt sets conditions for Tibetans to get passports, says move out of settlements, forgo benefits*. [online] Available at: https://www.hindustantimes.com/india-news/govt-riders-for-tibetans-to-get-passports-move-out-of-colonies-forgo-benefits/story-jBsKDOitUKmDACZ1DP2jFK.html [Accessed 26 Apr. 2023]. *Tamding Dorjee vs Govt of India Ministry of External Affairs* (2017). Available at: https://indiankanoon.org/doc/187572530/ (Accessed: April 26, 2023). In the case in question, the RPO (Bangalore) judgement was appealed, and the High Court upheld three of the four sections while declaring the one banning Tibetans from returning to their initial refugee settlements illegal.

[387] Wikipedia. (2020). *Citizenship (Amendment) Act, 2019*. [online] Available at: https://en.wikipedia.org/wiki/Citizenship_(Amendment)_Act. [Accessed on 26 Apr. 2023].

that the CAA overlooks multiple groups of illegal migrants and refugees in India, including Tibetans. During my research, many of my sources indicated their dissatisfaction with the CAA 2019, describing it as a discriminatory law against the Tibetan exile group. Even though they are one of the oldest persecuted religious communities, living in exile for over 60 years in India and meeting the specified requirements under the act, aside from their place of origin. The Tibetan exile population has been left uncertain about their rights of participation due to the Indian government's discriminatory inclusion.

Tibetans in India experience discrimination when attempting to attain citizenship rights, facing exorbitant lawyer fees, delays in receiving passports, and changes in laws and regulations. One of my interview participants from Darjeeling candidly stated, *"I do not want to apply for Indian passport I am Tibetan national, and I will support the CTA. But my son and his friends talk about getting Indian passport. I hear from them it is very difficult process and lot of money is needed."*[388] Several informants during my field study expressed their concern, even though most of them did not openly show their intention to claim Indian citizenship but they certainly seemed to be discouraged by the laborious process, subjective regulations and expenses involved in applying for Indian passport and thus obtaining Indian citizenship.

5.4.2 TIBETAN CITIZENSHIP UNDER CHARTER OF THE TIBETANS-IN-EXILE AND POSITION OF CENTRAL TIBETAN ADMINISTRATION

It is important to deliberate the position of CTA on Tibetans acquiring Indian citizenship in view of citizenship provision prescribed under the Charter of the Tibetan-in-Exile.[389] Article 8 of the Tibetan Charter provides that:

[388] Personal Interview conducted at Tibetan Refugee Self-Help Centre, Darjeeling on February 23, 2021.
[389] *Central Tibetan Administration* (2011). Available at: https://tibet.net/wp-content/uploads/2011/06/Charter1.pdf (Accessed: April 26, 2023).

(1) Both foreign-born Tibetans and those born in Tibet have the right to become citizens of the country. The right to get Tibetan citizenship is granted to anybody whose biological mother or father is of Tibetan heritage; or

(2) If a Tibetan refugee follows the guidelines outlined in Article 13 of this Charter, they may be able to keep their Tibetan citizenship even if they were forced to accept citizenship of another nation due to extreme circumstances.; or

(3) An individual who has been lawfully married to a Tibetan native for a minimum of five years, regardless of their official nationality, is eligible to apply for Tibetan citizenship.

(4) In order to execute the preceding Articles, the Tibetan Assembly shall devise citizenship laws.

The Charter of Tibetans-in-Exile substantiates dual citizenship for Tibetan nationals. However, a captivating discovery from my research reveals that the CTA holds a divergent viewpoint, specifically regarding Tibetan individuals acquiring Indian citizenship. The CTA has continually expressed a non-biased stance on Tibetan individuals pursuing Indian citizenship, perceiving it as a personal option. Nevertheless, some members of the CTA are concerned that increasing numbers of Tibetan nationals becoming Indian citizens could have a detrimental effect on their cause and efforts to return to Tibet. The CTA officials have the majority opinion that granting a refugee status to the Tibetans in exile could be beneficial to the Tibetan movement, both domestically and globally. This study reinforces and expands upon the assertions made by previous research studies that the CTA does not hinder the possibility of Tibetan citizens acquiring Indian citizenship, although it does not actively encourage the process either. Additionally, the CTA does not provide an explicit endorsement for Tibetans seeking Indian citizenship. In contrast, the CTA seems to distinguish between this matter by actively urging Tibetan immigrants to embrace the citizenship of the countries they currently reside in, particularly Western nations (such as the U.S.A., Germany, Switzerland, the U.K,

etc.).[390] The above view was reconfirmed by one of my interview participants, an official of the CTA and resident of Dharamshala since birth, stated that *"India has been our second homeland since decades for pursuing our Tibetan movement. The very purpose of coming to India and taking refuge was to make the world aware of the wrongs that have been done with us as a community. If we take Indian citizenship, then we will lose our Tibetan identity and our Tibetan movement will become weak. We need maximum Tibetans living in exile to make our voices and demands heard across the globe and for that we must maintain our stateless status, our nationality and identity."*[391]

Results of the present study highlight that the CTA's ambiguous position towards Tibetans who intend to acquire Indian citizenship under the Citizenship Act 1955 and the regulations laid down for the same (surrendering RC, IC, green book and all benefits received from the CTA) has furthered the dilemma and procedural problems faced by common Tibetan settlers. While Article 8 of the Tibetan Charter of 1991 allows for Tibetan nationals to hold dual citizenship, provided they maintain their Tibetan citizenship by possessing their Green Book and fulfilling the annual tax requirements stated within it. On the other hand, regulations of the GoI dictate that Tibetan Nationals applying for Indian Citizenship must give back their RC and IC to the GoI, which is in disagreement with issues pertaining to Tibetan citizenship as the CTA only distributes a Green Book to those Tibetans who lawfully possess the Registration certificate.[392]

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[390] Choedon, Y. (2017). Challenges to Tibetan Diasporic Institutions in India. *International Studies*, 54(1-4), pp.196–217. doi: https://doi.org/10.1177/0020881718778438; Choedon, Y. (2018). *The Unintended Consequences of India's Policy on Citizenship for Tibetan Refugees THE UNINTENDED CONSEQUENCES OF INDIA'S POLICY ON CITIZENSHIP FOR TIBETAN REFUGEES 1*. [online] Available at: https://www.idsa.in/system/files/policybrief/PB-citizenship-tibetan-refugees.pdf [Accessed 26 Apr. 2023]; Yamamoto, T. (2018). Citizenship In-between: A Case Study of Tibetan Refugees in India. *Law and Democracy in Contemporary India*, pp.85–112. doi: https://doi.org/10.1007/978-3-319-95837-8_4; Seetharaman, A. (2020). Tibetan Refugees in India: The Challenges of Applying for Indian Citi-zenship. [online] (54), pp.95–113. Available at: https://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_54_05.pdf [Accessed 25 Apr. 2023].

[391] Personal Interview with an official at CTA, Dharamshala conducted on January 27, 2021.

[392] Choedup, N. (2015). From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration. *Arts & Sciences Electronic Theses and Dissertations*. [online] doi: https://doi.org/10.7936/K75D8Q30; Choedon, Y. (2018). *The Unintended Consequences of India's Policy on Citizenship for Tibetan Refugees THE UNINTENDED CONSEQUENCES OF INDIA'S POLICY ON CITIZENSHIP FOR TIBETAN REFUGEES 1*. [online] Available at: https://www.idsa.in/system/files/policybrief/PB-citizenship-tibetan-refugees.pdf; Frilund, R. (2019). *FROM*

Furthermore, this study acknowledges that the CTA has communicated their stance on Tibetan individuals obtaining Indian citizenship, stating that they must surrender their RC and IC and meet the requirements set by the GoI. However, the CTA has not issued a similar requirement for those pursuing citizenship or residency in Western nations. The CTA believes that once a Tibetan has become an Indian Citizen, they should not be able to receive benefits from the CTA based on refugee status, and they should be required to give up all privileges and resources like scholarships and jobs at the CTA, including residence in the designated Tibetan settlements.[393] In my interview with Ms. Namgyal Dolkar, she mentioned, the dilemma that an ordinary Tibetan would face if ever they decide to apply for rightful claim of being an Indian citizen and the encouragement and support that needs to be given to the Tibetan youth to make a choice of their own willing. She said, *"I am an elected member of the Tibetan Parliament in Exile, despite being an Indian citizen. Though I have faced some backlash from within the Tibetan community as well as a few officials of the CTA, but my position to take Indian citizenship and still be part of the Tibetan community was equally supported by many 2nd and 3rd generation Tibetans for whom acquiring Indian citizenship became a possibility. I feel we need more such examples and with time, even the older generation of our community will change and even the CTA's views."*[394]

Based on my extensive field research and its enlightening findings, one could argue that the stance of the CTA regarding Tibetans in exile pursuing Indian citizenship is equally ambiguous to the rules established by the GoI for them. An ordinary Tibetan youth living is exile without any support from the CTA or clarity on laws and regulation of GoI remains in a state of limbo. The Citizenship Act 1955 has caused a rift between Tibetans who were born in India before and

TIBET TO INDIA AND FURTHER Transit Journeys and Onward-Migration Aspirations of Tibetan-Born Tibetans in Dharamsala. [online] Available at: https://www.utupub.fi/bitstream/handle/10024/147328/AnnalesAII354Frilund.pdf?sequence=1&isAllowed=y [Accessed 28 Apr. 2023].

[393]Reporter, S. (2017). "*CTA President Iterates Kashag's Position on Tibetans Applying for Indian Citizenship*. [online] Central Tibetan Administration. Available at: https://tibet.net/cta-president-iterates-kashags-position-on-tibetans-applying-for-indian-citizenship/". [Accessed on June 15, 2022]

[394] Personal Interview with Ms Namgyal Dolkar, MP Tibetan Parliament in Exile, conducted at McLeod Ganj, Dharamshala on January 13, 2021.

after 1st July 1987 as they seek Indian citizenship. Concurrently, the CTA has not been as supportive of Tibetan youth who are eligible and aspire to obtain Indian citizenship, in order to attain a higher quality of life and basic rights. In spite of the significant changes that took place, particularly after the Ms. Namgyal Dolkar case in 2010, there have been notable transformations in legal discourse, the legal system, policy implementation, and knowledge within both the Government of India (GoI) and the Central Tibetan Administration (CTA) regarding citizenship issues for the Tibetan exile population. The choice of Tibetan individuals to pursue Indian citizenship rights is influenced by various factors, including arbitrary laws, regulations, policies, as well as their own Tibetan community's values, traditions, sense of identity, heritage connection, political engagement, and global standing.

5.4.3 TIBETAN DIASPORA IN INDIA IN A STATE OF LIMBO

It is important to situate the voice of an ordinary Tibetan living in designated settlements across India within the context of citizenship and the issues surrounding it. In this section, I highlight a few excerpts from my interviews with Tibetans in Leh, Dharamshala, and Darjeeling to understand their desire, denial, and dilemma towards citizenship rights. According to the Foreigners Act of 1946 and the Citizenship Act of 1955, India treats all Tibetan exiles as foreigners. Tibetans in exile face multiple levels of exclusion from the GoI. Despite the Indian Citizenship Act of 1955, which was modified in 1986 and 2003, granting Indian Citizenship to those Tibetans born in India, there are restrictions in place concerning who is eligible to apply, which excludes the majority of 2nd & 3rd generation Tibetans born in India.

In my interviews in Dharamshala, one respondent, a 3rd generation Tibetan, who is desirous to apply for Indian citizenship but is not within the age criteria according to the Citizenship Act 1955 said that *"There are few people known to me and you also must have read about famous Tibetan citizenship cases. They have become Indian citizens and elders of the community as well as members of the CTA have not been happy. But youth like me are happy that more Tibetans are opening doors for young people in the community to take citizenship and get benefit of permanent jobs and ease to study abroad. Elders of the Tibetan exile community as*

well as members of the CTA openly discourage people in the community to take up Indian Citizenship."[395] A few of them, especially the younger Tibetan population were candid enough to mention the lack of support whether moral or procedural from the CTA and GoI. Most of them also expressed their discontentment towards being caught in the bureaucratic web of both the governments and unclear rules and legislations. 26-year-old volunteer at Student for Free Tibet, mentioned about various factors influencing the decision of young Tibetans in seeking Indian citizenship, she said, *"First there is lack of knowledge and awareness about the laws, rules, and procedures in claiming Indian citizenship. Second, people like me are excluded prima facie because of the exclusionary clause of the Citizenship Act 1955. Third, even if few of us are within the eligibility criteria to claim Indian citizenship there is no concrete help from CTA dealing with regulations made by the GoI regarding surrendering RC, IC and additional privileges related to refugee status. Fourth, majority members of the Tibetan community especially from the CTA and 1st generation Tibetans are not in favour of Tibetans taking Indian citizenship as it will dilute our identity and Tibetan nationality and our chances of returning to Tibet as we will no more be Tibetans in the true sense."*[396]

According to my interview results majority 1st generation and few 2nd generation Tibetans, whether or not a member of the CTA, opined that taking up Indian citizenship will dilute the Tibetan cause and freedom movement. Therefore, the majority of Tibetan exiles in India have made the most of their marginalized status in order to promote Tibetan nationalism and cultural-religious traditions.[397] Based on my research, it was observed that the decision to decline Indian citizenship provided a significant sense of purpose and motivation for the majority of Tibetans in exile to remain dedicated to the cause of Tibetan nationalism. A senior official from the CTA in his interview said, *"The main goal at CTA is to help preserve Tibetan nationality and identity in exile, welfare of the Tibetans in exile and to contribute to the Tibetan movement of Middle*

[395] Personal Interview conducted at Tibetan cluster settlement, McLeod Ganj, Dharamshala on January 11, 2021
[396] Personal Interview conducted at Tibetan Cluster Settlement, McLeod Ganj, Dharamshala on January 10, 2021
[397] Information gathered through interviews conducted in Leh, Dharamshala and Darjeeling. Thapa, S. (2019). FLEXIBLE LIMINALITY AMONG THE TIBETAN DIASPORA: TIBETAN EXILES ADJUSTING CULTURAL PRACTICES IN DHARAMSALA, INDIA AND THE UNITED STATES. *Theses and Dissertations--Anthropology*. [online] doi: https://doi.org/10.13023/etd.2019.023.

Way Approach envisioned by HH Dalai Lama. In this context Tibetans taking Indian citizenship will not help us maintain a strong sense of community and all the efforts of our older generation to fight for our return to Tibet will go to waste. The CTA has no problem if an individual Tibetan chose to become Indian citizen. There are laws and regulations that they must follow and we at CTA must follow. But then they will no longer remain Tibetan refugees as they must surrender their RC and IC. Tibetans born and living in India should consider all these factors and work towards the greater cause of the community i.e., the Tibetan movement."[398]

Through my field study and interview data, I gathered that there were primarily two reasons for Tibetans in exile to refuse or show their unwillingness to obtain Indian Citizenship. One, majority of them were fulfilled with the services given by the CTA, second, in addition to that, most of the Tibetans in exile also expressed their passion about the Tibetan nationalist cause which for them is a principal driving force to go back to Tibet. One of my interview participants, a 34-year-old 2nd generation Tibetan, born in Tibet and living in Leh since his arrival, frankly, stated that *"I do not want to get Indian citizenship, I am very happy with CTA, and I am loyal to my people. Living in my community is very important to me I belong with my people and that is good. I wish to go back to Tibet because I am Tibetan citizen and Tibet is my homeland. I want to be part of Tibetan movement; then why will I take Indian citizenship."*[399] A 52-year-old Tibetan female, born and raised in Darjeeling, explicitly conveyed her unwillingness to obtain Indian Citizenship for herself and when asked, if she would encourage her children to apply for Indian citizenship, she did not show much interest. *She said, "I am thankful to Indian government and Tibetan government for everything they give us. We must give back to our community and Tibetan government for doing so much. I don't need Indian citizenship I was born here in India, but my root is Tibetan, and I want to live with my community. We have good benefits from Tibetan government. Tibetan government gives education, jobs also. They take care of us. We must be loyal to our government. If my son want, they can decide on their own,*

[398] Personal Interview with an official of the Central Tibetan Administration conducted at the Tibetan Cluster Settlement, McLeod Ganj, Dharamshala on January 15, 2021.
[399] Personal Interview with a camp resident conducted at Sonamling Tibetan refugee settlement, Leh (Ladakh) on June 30, 2019.

life is different for them, they want better jobs and education and for that Indian citizenship is needed. I cannot say for my son if he wants his wish. But I am loyal to my community."[400]

The present thesis study offers an evidence-based viewpoint on the existing research regarding the Tibetan exile community in India and the contrasting opinions surrounding citizenship rights. This is study substantially claims that while the older Tibetans feel that preserving their identity and maintaining their refugee status would assert their commitment towards the Tibetan freedom movement and hence outrightly refuse to obtain Indian citizenship. However, the Tibetan youth seems to believe that their Tibetan identity cannot be diminished just by acquiring Indian citizenship or citizenship of any other country. They feel that by having a stable life and not having to worry about their socio-legal or political status would give them more time and opportunity to commit to the Tibetan cause.[401] McGranahan,[402] in her research on citizenship and Tibetans, presented the notion of 'refusal', asserting that refusal could encompass not just the cutting of social ties, making of a declaration of war, or declining of affiliations, but also signify an element of group ethics, a productive action, or a restructuring of connections rather than their ending. Taking into consideration McGranahan's perspective, it can be posited that the Tibetan exile community in India declines citizenship rights as a result of their strong desire and necessity to safeguard their identity, roots, and sense of belonging within the community.

[400] Personal Interview conducted at the Tibetan Refugee Self- Help Centre, Darjeeling on February 17, 2021.

[401] Information gathered through interviews conducted at Leh, Dharamshala and Darjeeling. Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013; Coelho, J.P. and Somayaji, G. (2022). Tibetan Nationalism and Cultural Homogenisation in Exile: An Interpretation of Institutions and the Public Sphere. *Sociological Bulletin*, 71(2), pp.272–288. doi: https://doi.org/10.1177/00380229221081988; Yamamoto, T. (2018). Citizenship In-between: A Case Study of Tibetan Refugees in India. *Law and Democracy in Contemporary India*, pp.85–112. doi: https://doi.org/10.1007/978-3-319-95837-8_4; Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, [online] 74(1), pp.167–192. Available at: https://www.jstor.org/stable/43610656. [Accessed 5 Aug. 2022]; Adams, W.F. (2005). Tibetan refugees in India: integration opportunities through development of social, cultural and spiritual traditions. *Community Development Journal*, [online] 40(2), pp.216–219. Available at: https://www.jstor.org/stable/44257875 [Accessed 5 Aug. 2022].

[402] McGranahan, C. (2016). Refusal and the Gift of Citizenship. *Cultural Anthropology*, 31(3), pp.334–341. doi: https://doi.org/10.14506/ca31.3.03; McGRANAHAN, C. (2018). Refusal as political practice: *American Ethnologist*, 45(3), pp.367–379. doi: https://doi.org/10.1111/amet.12671.

This decision is further shaped by their association with a shared objective, aspirations, opportunities, and the anticipation of eventually returning to Tibet.

During my fieldwork and informal discussions with members of the Tibetan community, I noticed a divergence of viewpoints regarding Indian citizenship between the older and younger Tibetan generations. Majority first-generation and some second-generation Tibetan exiles, especially the Tibetan youth engaged in political activism for the Tibetan freedom movement, regarded obtaining Indian citizenship as a betrayal of their community, government, and the Tibetan freedom struggle. They believed it would diminish their purpose and aspirations for Tibet's independence and eventual repatriation. While most 2nd and 3rd generations of Tibetan youth expected a secure life with improved educational and professional options, in or outside India, and thus were willing to take on Indian citizenship or the citizenship of any other nation they relocated to. It was argued by a majority of them that a secure and content lifestyle would allow them to devote more time and energy to the Tibetan cause, without being concerned about the legality of their documents, procedural needs, and daily life. However, they also expressed their displeasure with legislation that was unfair and discriminatory, particularly in India for example, the Indian Citizenship Act 1955 (Amendment 1986), which allows Tibetans born in India before 1986 to apply for citizenship in India but does not provide for Indian born Tibetans after 1986, leaving a major group of third generation Tibetans in a state of limbo.

I assert that citizenship for members of a nation-state is a legitimate entitlement that encompasses their political, social, and civic identity. However, refugees and non-members who may not always actively pursue formal political participation by becoming nation-state members' citizenship rights grant them access to privileges and welfare benefits, including housing, education, and healthcare. Most Tibetans express their reservations or vehement refusal to accept this gift, as a non-negotiable political move to protect their identity, Tibetan nationality, belongingness, and their legitimate right to membership rights as outlined in the Charter of Tibetan in Exile 1991. Other significant elements also play a vital role in the Tibetan community's choice to accept or decline citizenship rights. First, the extent to which Tibetans

in India have informally blended in with the local population is a deciding factor for them to pursue official integration. Many Tibetans hope for implementation of Tibetan Rehabilitation Policy (TRP) 2014 for their socio-economic integration and better standard of living, which would then not require them or their future generations to take up Indian citizenship.[403] Second, due to the lack of precise legal regulations, criteria for eligibility, and the rights and obligations associated with applying for Indian citizenship under the Citizenship Act 1955 (Amendment 1986), many eligible Tibetans are discouraged and perplexed. Third, there is a deficiency of institutional infrastructure, aid and backing from the CTA. Ultimately, the reaction, response and trepidation of being disowned from within the Tibetan society, for obtaining Indian citizenship and relinquishing the Tibetan identity.

The informal assimilation of Tibetan exiles residing in India, as demonstrated by prior research and the substantial findings of this thesis study, unequivocally eliminates any uncertainty, particularly with regards to their social, cultural, and economic dimensions. However, their formal legal status remains ambiguous, and they have not been extended any governmental support either from the CTA or from the Indian Government for the same. Majority of Tibetans living in exile have recognized that this state of limbo as the main cause of the diasporic relocation of Tibetans, particularly the youth, to western countries, thus posing a risk to the goal of Tibetan independence.[404] A persistent debate exists within the Tibetan diaspora concerning

[403] Balasubramaniam, M. and Gupta, S. (2021). Disciplining Statelessness: Fragmentary Outcomes of the Tibetan Rehabilitation Policy in India. *Asian Studies Review*, pp.1–19. doi: https://doi.org/10.1080/10357823.2021.1931030; Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi: https://doi.org/10.1080/14631369.2019.1579635; Choedon, T. (2019). Rehabilitation or a temporal adjustment: An assessment of the Tibetan Rehabilitation Policy, 2014. The Tibet Policy Institute. (n.d.). Available at: https://tibetpolicy.net/wp-content/uploads/2020/07/TPI-Journal-2019-2.pdf [Accessed 25 Apr. 2023].

[404] Frilund, R. (2019). Tibetan Refugee Journeys: Representations of Escape and Transit. *Refugee Survey Quarterly*, 38(3), pp.290–313. doi: https://doi.org/10.1093/rsq/hdz007; Frilund, R. (2017). (Transit) migration via Nepal and India: Tibetans en route to the West. *Migration Studies*, 7(1), pp.21–38. doi: https://doi.org/10.1093/migration/mnx064; Lauer, T. (2015). Between Desire and Duty: On Tibetan Identity and its Effects on Second-Generation Tibetans. *Asian Ethnology*, 74(1). doi: https://doi.org/10.18874/ae.74.1.08; Bloch, N. (2023). Boundary-Making and Political Activism in Protracted Exile: Second-Generation Tibetan Refugees in India. *Journal of Refugee Studies*. doi: https://doi.org/10.1093/jrs/fead013; Frilund, R. (2018). Exploring (transit) migration through a postcolonial lens: Tibetans migrating to India and beyond. *Journal of Ethnic and Migration Studies*, pp.1–17. doi: https://doi.org/10.1080/1369183x.2018.1501270; Choedon, Y. (2017). Challenges to Tibetan Diasporic Institutions in India. *International Studies*, 54(1-4), pp.196–217. doi: https://doi.org/10.1177/0020881718778438.

the matter of citizenship and its consequences on accessing socio-economic rights and privileges. This has led to an uncertain environment, with individuals grappling with the decision of preserving their identity and origin or ensuring a prosperous future for succeeding generations. The Tibetan youth holds the view that acquiring Indian citizenship may bring about increased prospects, yet there is also an awareness that it could result in a sense of disconnection from one's place of origin.

CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

ABSTRACT

Within this concluding chapter, I present a comprehensive analytical framework for evaluating this study's findings, categorized into two overarching themes that align with the research questions. The first segment pertains to the emerging issues within the Tibetan exile community, and the second involves the lessons derived from the Tibetan case study. In the early section of the chapter, I underscore the challenges confronted by the Tibetan exile community resulting from their legal status in limbo, which is classified as 'foreigners' by the Indian government, 'stateless Tibetan Nationals' as per the Central Tibetan Administration, and 'Indian citizens' for those who have formally chosen this classification. Based on a fresh reading of scholarly sources, existing data, and new data collected for my interview research study, I conclude that within the Tibetan community, the issue of accepting or rejecting citizenship/membership rights holds significant importance, as it shapes and governs their exilic identity. The Tibetans in exile find their "sense of belonging" within their community, and it is crucial for them to work towards its preservation. Nevertheless, the interviews conducted during this study clearly demonstrate an emerging feeling of concern within the Tibetan community, specifically among the younger generation, regarding the possibility of Tibetans opting for Indian citizenship or relocating to Western countries. The situation also raises a significant concern within the Tibetan exile community, particularly the Central Tibetan Administration.

A considerable number of average Tibetans are ensnared in a convoluted system of dual governance, as both the Government of India and the Central Tibetan Administration exert considerable influence over their daily lives and prospects for the future. The primary concern for most Tibetan youth is the determination of their formal legal status, which remains in limbo and gives rise to various problems, including limited access to socio-economic rights, citizenship rights, arbitrary treatment, and procedural obstacles. The issue of preserving collective identity over individual desires of stability within the Tibetan community, along with

the longstanding position of the Central Tibetan Administration (CTA) and ad hoc legislations of the Indian government, is perceived as both a unifying and divisive element in the political and legal framework of Tibetan identity in exile.

The subsequent section of this chapter elucidates the pragmatic consequences that arise from re- thinking of the existing literature and, more importantly, the outcomes of my field study. I contend that the Tibetan exile community, compared to all other refugee groups in India, can be seen as an exceptional model for scrutiny and drawing valuable lessons to redefine the domestic and global framework for the protection and management of refugees. The presence of the Tibetan exile community provides evidence of the importance of maintaining a collective identity for the survival and adaptation of refugee communities in the host nation. Based on the theoretical evidence and narratives of Tibetans in this study, it is evident that the collaboration between India and the Central Tibetan Administration, a semi-sovereign organization, has played a crucial role in the organization of the Tibetan community, while simultaneously politically motivating the exile community, preserving their culture, establishing a connection with their homeland, and addressing daily concerns such as education, employment, health, funds, international relations, cultural maintenance, and the arrival, relocation, and rehabilitation of both new and existing refugees. The involvement of the Central Tibetan Administration with the Indian government, at both the national and regional levels, has demonstrated its efficacy as a representative entity for the Tibetan exile community in matters of rehabilitation and resettlement policies, legal processes, documentation, and tenancy rights. In this way, laying substantial groundwork for future deliberations on formulating possible domestic legislation that aim to safeguard and regulate refugees in India.

From a global perspective, my case study of the Tibetans in India reinforces the importance of cooperation between different entities and stakeholders in refugee protection and management discourse, including host nations, civil society organizations, and international bodies, in generating creative solutions that go beyond the established international refugee protection framework. These proposed solutions encompass the promotion of self-sufficiency, alleviating

the strain on recipient nations, and distributing the responsibility of burden-sharing. Consequently, its pertinence is greatly influenced by the context and aids in assessing the viability of the objectives expressed in the Global Compact on Refugees, which garnered widespread affirmation and backing from countries in the Global South, including India. Furthermore, the Tibetan diaspora living outside their homeland may also be viewed as empowered beings who surpass geographical limits and navigate their position within the context of international discussions on refugee legislation and policy formulation. The exile community, with the support of the CTA and various NGOs, has the goal of garnering global support from the international community to facilitate their freedom movement and pursue negotiations for repatriation to Tibet, with the ultimate objective of achieving genuine autonomy. This makes them an exemplary case study for refugee groups globally, demonstrating effective techniques for controlling their own narrative in order to safeguard their self-preservation and dignity.

To conclude, this chapter highlights the paradoxical alignments within the Tibetan exile population and accentuates the importance of conducting additional investigation into their future. The Tibetan diaspora exemplifies a simultaneous state of emancipation and stagnation, living as a stateless community in exile for over six decades. On one hand, it highlights the success story of the community's resilience and self-rehabilitation within the host nation through a self-sustaining resettlement process. This process focuses on safeguarding the collective identity of the Tibetan community by resisting assimilation through citizenship, thereby reinforcing their purpose for living in exile. Conversely, this position has the disadvantage of placing limitations on the capacity of numerous Tibetans born in exile to obtain specific civil, political, and socio-economic rights, hindering their personal growth and ambitions. The Tibetan diaspora faces a multi-faceted limbo status, encompassing issues of membership/citizenship rights vs preservation of Tibetan nationality; the collective identity of the exile community vs individual aspirations; and the dilemma between hoping for a return to their homeland vs accepting a life in exile as their future.

6.1 EMERGING ISSUES WITHIN THE TIBETAN EXILE COMMUNITY IN INDIA

This thesis presents an exploratory and representative study of the daily lives of the Tibetan exile community in India, focusing on their interactions with social, political, economic, and moral challenges. In this way my work illustrates the negotiation and construction of the Tibetan national identity in exile, highlighting how it has served to demonstrate loyalty within the community and legitimize their cause for global support. As a result of these insights this thesis analyses how themes of membership rights, belonging, identity, socio-economic mobility, and liminal legal status have been incorporated into the discourse surrounding rehabilitation, assimilation, and future expectations of the Tibetan exile community in India.

On of the most important drivers for generating insights for this thesis were my in-depth ethnographic interviews conducted with CTA officials, NGO volunteers, and Tibetan residents living in the rehabilitation settlements at three distinct locations: Leh, Dharamshala, and Darjeeling. Despite the limited sample size, the thesis study presents valuable insights into the administrative and political practices of the CTA. It also explores the asymmetric socio-legal dynamics with the Indian Government at state and union levels, and concepts of Tibetan national identity and sense of belonging. The Tibetan exilic community in India is confronted with a dilemma between their collective aspiration for cultural preservation as a manifestation of loyalty to the Tibetan Movement, and their individual aspiration for upward socio-economic progress by acquiring Indian citizenship.

Therefore my study adds to the current understanding of the legal framework that classifies Tibetans in India as either foreigners or refugees or citizens. While being classified as 'foreigners' according to the Foreigners Act of 1946 and the Foreigners Registration Rules of 1992, Tibetans are granted legal long-term sanctuary and rehabilitation by India in specifically designated settlements. Simultaneously, the Indian Citizenship Act of 1955 grants citizenship to individuals born in India during the specified period outlined in the Citizenship Act, encompassing eligible claims from the Tibetan exile population. Significantly, Tibetans are often denoted as "refugees" in parliamentary debates, ministerial and district level documents,

and discourse, despite their official categorization as foreigners. Thus, given the multitude of diverse identities and definitions associated with "Tibetaness," the discussion concerning the legal identity of the Tibetans in India is highly contentious and susceptible to varying interpretations.

Furthermore, India does not possess a dedicated domestic legislation for the impartial administration of refugees in its territory. The vulnerability of India's refugee community has been heightened due to the implementation of ad hoc and need-based legislations and rules. The persistence of an uncertain status for numerous refugees, whether as individuals or communities, is a result of an exclusionary pattern of citizenship in India. This pattern became evident with the introduction and enforcement of the CAA 2019, which targeted a specific group of immigrants while neglecting to address the citizenship or membership rights of other refugee populations, including Tibetans.[405] The term "citizen" in India can cause confusion as the Union government is responsible for determining the meaning of belonging, and the statutes exemplify how the Indian state continuously defines citizenship rights. The CAA's implementation has resulted in creating de facto statelessness, illustrating the profound transformation of statelessness into a perplexing realm within India. India's track record in offering assistance to stateless refugees is far from satisfactory, with numerous refugees and asylum seekers enduring lengthy stays in refugee camps as they await the government's adoption of a proactive stance on their citizenship and right to a dignified existence.[406]

My case study of Tibetans in India brings forth extensive deliberations that have taken place among scholars concerning the inclusion of refugees within the construct of citizenship rights. [407]Some contend refugees, as well as other transnational actors like migrants or aliens, pose a

[405] Citizenship Amendment Act (CAA) 2019, The CAA was passed to provide Indian citizenship to the illegal migrants who entered India on or before 31st December 2014. The Act was passed for migrants of six different religions such as Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan. https://egazette.nic.in/WriteReadData/2019/214646.pdf the Citizenship Amendment Act (2019) attracted national and global attention and massive protests due to exclusion of Muslims among the refugee communities in India while granting citizenship.

[406] S Irudaya Rajan (2022). Refugees: Status, condition, and their future. In *The Routledge handbook of refugees in India*. New Delhi: Routledge India.

[407]Choudhary, N. (2012) Assessing “Belonging” and claims of “Home” Peace Prints *South Asian Journal of Peace building* 4 (1)

challenge to the dominant norms of belonging that are built upon citizenship rights developed by the state. The attribution of membership rights to citizens is contingent upon factors such as birth and residence intentionally excluding individuals who are not citizens. The allocation and realization of social, economic, and political rights, which are contingent upon citizenship rights and authorized by the state, serves to perpetuate the exclusion of refugees and establish an additional marginalized group within the country. All the benefits provided by the state to its citizens are channeled through the political designation of membership.[408] Through an examination of the situation of Tibetans in India in this study, it becomes apparent that the authority of the state to determine recipients of assistance and uphold their rights has politicized the concept of humanitarian grounds to a certain degree. As a result, only individuals who meet the eligibility criteria are assured of their inherent rights as citizens. Therefore, the matter of oversight regarding the safeguarding of the basic rights of noncitizens, undocumented immigrants, and stateless individuals becomes apparent. [409]

6.1.1 TIBETAN EXILE COMMUNITY'S DESIRE, DILEMMA OR REFUSAL TO ACCEPT INDIAN CITIZENSHIP RIGHTS

The objective of this study was to examine various factors that influence the legitimate socio-economic and citizenship/ membership demands of the Tibetan exile community in India. Through its distinctive socio-legal study and ethnographic approach, this thesis research has proven instrumental in identifying deficiencies within legal procedures, identity documentation, and rehabilitation policies that significantly impact the daily lives and overall well-being of the Tibetan exile community. Furthermore, by means of conducting comparative field interviews in Leh, Dharamsala, and Darjeeling, the thesis study explores various factors that contribute to

[408]Rolfe, E. (2008). REFUGEE, MINORITY, CITIZEN, THREAT. *South Asia Research*, 28(3), pp.253–283. doi:10.1177/026272800802800302.

[409] Arendt, H. (2017) "We refugees." *International Refugee Law, Routledge* pp.3-12. Agamben, G. (1998) *Homo sacer: Sovereign power and bare life* (Stanford: Stanford University Press, 1998)

the assertions of citizenship put forth by the Tibetan exile community, which are discussed in the subsequent sections.

i) Informal Integration – Overall, this study strengthens the idea that the extent of informal integration among Tibetans in India is a decisive factor in their aspiration for formal integration. The present study demonstrates that a considerable number of Tibetans aspire for the implementation of TRP 2014 as a means to achieve socioeconomic integration and enhance their standard of living, thus obviating the need for them or their descendants to acquire Indian citizenship. As emphasized in the findings of this thesis study, the Tibetan exile population encounters various forms of discrimination in terms of fundamental rights pertaining to employment, education, residence, and so forth. As a case in point, the Tibetan community was granted the Tibetan Rehabilitation Scheme in 2014. Tibetans living in India have the opportunity to benefit from the state and central government welfare programs, including the public distribution system, employment schemes, Rajiv Gandhi Awas Yojana, and loans provided by nationalized banks. Through the implementation of policies, Tibetans are granted the right to engage in economic activities and pursue professions for which they possess professional qualifications, such as nursing, engineering, accounting, medicine, and more. However, the results of this have firmly established that Tibetans living in different settlements (specifically Leh, Dharamshala, and Darjeeling in the present context) have observed a lack of consistency in the application of the rehabilitation scheme by the Indian government, as each state government has a distinct perspective on its implementation. This has resulted in the Tibetan exile community being plagued by profound uncertainty regarding their ability to access basic socio-economic subsistence rights and their prospects for the future.

ii) Absence of consistent Citizenship Laws – The examination of eligibility and claims of citizenship rights pertaining to the Tibetan exile diaspora in India has expanded our understanding of the absence of consistent and comprehensive legal regulations. In addition to the ambiguous criteria, rights, privileges, and responsibilities associated with the citizenship

application process under the Citizenship Act of 1955 (Amendment of 1986 and 2003) and the policies set by the Indian government. This state of uncertainty is a major cause of discouragement and confusion among eligible Tibetans who wish to apply for Indian citizenship. Through comparative field interviews, the present study has yielded supplementary evidence regarding the scope of the citizenship act in India and its exclusionary implications for the Tibetan exile community in India. It is apparent that the Citizenship Act, 1955, as revised in 1986 and 2003, lacks provisions concerning the citizenship rights of individuals born after July 1, 1987. This results in a considerable population of Tibetans, particularly those from the 2nd and 3rd generations, being ineligible to assert their citizenship rights despite being born in India. Furthermore, the Citizenship Amendment Act of 2019 fails to include Tibetans among the persecuted individuals eligible for citizenship through naturalization. As a result, a considerable number of Tibetans are unable to exercise their legitimate rights to citizenship or membership.

iii) Political and Social Stigma in Exile – The present study provides a major insight into the political and social milieu within the Tibetan exile community in India regarding the matter of acquiring Indian citizenship. The results of this study significantly contribute to our comprehension of the reaction, response, and apprehension of potential alienation within the Tibetan community due to the adoption of Indian citizenship and the relinquishment of Tibetan identity. While there is a growing recognition among Tibetan youth in India of their rights as citizens. However, the vast majority of ordinary Tibetans are presently refraining from actively seeking Indian citizenship. This is because statelessness still carries significant political and symbolic implications, and obtaining Indian citizenship is perceived negatively within the Tibetan exile community.[410]

[410] Ahmad, M.N. (2022). The economic status of Sri Lankan and Tibetan refugees in India. *The Routledge Handbook of Refugees in India*, pp.780–789. doi: https://doi.org/10.4324/9781003246800-72.

iv) The State of being in Liminality - Tibetan exile has remained in a permanent liminal status since 1959, existing between the separation from their homeland and the possibility of return. The enduring and suffering nature of this liminality has become an integral part of the exile experience, deeply impacting the legal and political dimensions of Tibetans' identity. It serves as both a component of daily life and a backdrop for cultural and political identity. The CTA remains resolute in its conviction that, in order to ensure the on going perpetuation of the exiled Tibetan cause for future generations, it is imperative for every Tibetan to willingly consent to a stateless existence. However, Tibetans are progressively opting to challenge this moral decree of statelessness, as evidenced by the three case studies (Leh, Dharamshala, and Darjeeling) examined in this thesis. Conversely, Tibetans living in India are currently exploring alternative approaches to conceptualize their conflict as originating from assertions of citizenship.

The thesis supplements the increasing body of research that suggests the Tibetan exile population encounters liminality as a result of their legal status in India. The current legal status of the Tibetan exile population requires them to possess identity documents, such as the RC issued by the GoI. This document is mandatory for all Tibetans living in India. The possession of the Green Book, issued by the CTA, is a requirement for every Tibetan in exile as it establishes their membership and citizenship within the CTA, facilitating their political belonging in the exile community. Both documents grant the Tibetans the right to receive socio-economic benefits from the GoI and the CTA, respectively. However, as indicated by the interview excerpts in this thesis research, the Tibetan population presently lives within a complex realm with an even more complicated legal status. Frequently referred to as refugees or individuals classified as foreigners, Tibetan Nationals, and Indian citizens, their status is documented through various forms of identification.[411] Additionally, the unclear stance of the CTA on Indian citizenship and its strategic use in objectifying the Tibetan exile population to

[411] Gupta, S. (2019). Enduring liminality: voting rights and Tibetan exiles in India. *Asian Ethnicity*, 20(3), pp.330–347. doi:10.1080/14631369.2019.1579635.

advance its political objectives of an independent Tibet has further contributed to the on going in limbo situation faced by Tibetans.[412]

iv) Dual Stance of the CTA – The present study confirms previous findings and contributes additional evidence that suggests that the main issue for the majority of Tibetans in exile is their present formal legal status in India and associated rights and privileges. Even though, Tibetans have a place of refuge in India and a substantial number of Tibetans are eligible to apply for citizenship of India, they seldom exercise this option. This can be attributed to the position taken by the CTA, which abstains from actively encouraging Tibetans to pursue Indian citizenship, due to concerns that it may divert their attention from their primary objective of achieving a free Tibet. The findings of this study definitively establish that the regulations imposed by the Indian government, which oblige individuals of Tibetan origin born in India to renounce their "Tibetan Nationality" and associated benefits in order to obtain citizenship, along with the stance of the CTA, are significant factors in deterring Tibetans born in India from seeking citizenship rights.[413] The findings from this study highlight the conflicting position of the CTA regarding Tibetan nationals seeking citizenship, as outlined in the Tibetan Charter provision. An exhaustive analysis of the field interviews has affirmed the dual position of the CTA, where the issue of Tibetan exiles obtaining citizenship in Western nations (Europe, US, Canada, etc.) is comparatively less politically controversial than acquiring Indian citizenship. The CTA encourages the incorporation of Tibetans living in Western countries into the global Tibetan diaspora, presenting them with a predetermined avenue for assimilation while upholding their Tibetan nationality. On the other hand, apprehensions arise in India regarding the process of Tibetan exiles transitioning to Indian citizens and the potential reshaping of their identity.

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[412] Hess, J.M. (2006). Statelessness and the State: Tibetans, Citizenship, and Nationalist Activism in a Transnational World1. *International Migration*, 44(1), pp.79–103. doi:10.1111/j.1468-2435.2006.00356. x.

[413] Mehra, M. (2020). World's Most Successful Refugee Community – The Case of Tibetan Refugees in India. *Citizens for Justice and Peace*. Available at: https://cjp .org .in /worlds -most -successful -refugee -community -the -case -of -tibetan -refugees -in -india/

Many ordinary Tibetans find themselves entangled in a complex web of dual governance, governed by GoI and the CTA, which shapes their daily lives and future prospects. This thesis study has contributed to the advancement of our comprehension of statelessness as a political condition that carries moral implications for the Tibetan exile community. The exilic status of Tibetans does not appear to be a subject that can be portrayed solely in terms of generational or geographical capacity, rather it is considered as a matter of personal political identity significant in the struggle for Tibet's future and the basis of identification for the GoI as well as connection with the local Indian population. Findings from comparative field interviews conducted for this study unequivocally demonstrate a mounting concern within the Tibetan community, particularly among the youth, regarding the potential choice of Indian citizenship by Tibetans. Several participants expressed their unwavering belief that obtaining Indian citizenship would not weaken their Tibetan identity but offer them the chance to assert their rightful birth privileges and fortify their position in advocating for the Tibetan cause.

My findings thus make significant contributions to our understanding of the Tibetan exile community's desire, dilemma, and refusal of Indian citizenship, and lay the groundwork for future investigations into the decision-making process of Tibetans in choosing to be stateless or not. The study has provided a fresh insight into the controversial issue of citizenship and Tibetans in exile by analyzing data from field interviews. The findings indicate that an increasing number of Tibetan youth, who possess professional skills and education, are unable to fully participate in the formal economy due to their lack of citizenship. As a result, they strongly believe that adopting a flexible approach towards acquiring citizenship is of utmost importance in order to safeguard specific economic rights, whether in India or through migration to Western nations. The recent judgments rendered by the high court have raised awareness about the formal legal entitlements of Tibetan exiles, though it remains unclear if this will lead to a surge in Tibetans applying for Indian citizenship.

The present study clearly establishes that the challenges experienced by the Tibetan exile community stem from their transitional legal position as 'foreigners' as defined by the GoI, as

'stateless Tibetan Nationals' as recognized by the CTA, and as 'Indian citizens' for those who have formally chosen this status. Through a comprehensive analysis of academic literature and interviews conducted for my research study, I have arrived at the conclusion that socio-economic claims of individuals are intrinsically tied to their citizenship/membership rights within any political system. In the context of Tibet, the decision to accept or reject citizenship/membership rights has developed into a pivotal concern that profoundly influences and governs their identity in exile.

6.2 RE-THINKING DOMESTIC AND INTERNATIONAL DISCOURSE ON REFUGEES THROUGH THE TIBETAN CASE STUDY

The primary motivation that drove me to pursue doctoral research was the desire to delve into the intricacies of domestic and international refugee discourse, with a specific emphasis on extracting valuable lessons from the Tibetan case study. The study, having thoroughly examined the available literature on the refugee situation in India, emphasizes the existence of a considerable refugee population facing precarious circumstances and ambiguous legal status due to the absence of national legislation or comprehensive policies. The challenges they face encompass a wide range of experiences and perspectives, spanning from political disputes over citizenship to socio-economic obstacles related to public services, education, employment, and integration with local communities. The management structure for refugees and asylum seekers remains ad hoc, characterized by a distinct dual system wherein the government and UNHCR divide the caseload of asylum seekers, with the government assuming responsibility for a larger portion (as seen in the situations of Tibetans and Sri Lankan). India's reactions to the increasing influx of refugees were influenced by the interplay of prescriptive ethnonationalism and political realism in the lack of explicit legislation.[414]

[414] Stimson Center. (2022). The Geopolitics of India's Refugee Policy • Stimson Center. [online] Available at: https://www.stimson.org/2022/the-geopolitics-of-indias-refugee-policy/ [Accessed 4 Dec. 2022].

Concurrently, this study has extensively scrutinized India's standpoint on its commitment to international refugee conventions and treaties. Due to India's ongoing rejection of the 1951 Refugee Convention, its 1967 Protocol, and international regulations on statelessness, the current situation regarding refugees in India remains uncertain. The implication of which shows that uncertainty regarding refugees has been illustrated through its treatment of them, which seems to be contingent upon necessity. The present study's findings indicate that the absence of international treaties and domestic legal obligations for refugee protection in India has led to the current government's reliance on domestic interests and ideological stance. As a result, management and safeguarding refugee rights becomes a prioritized option influenced by religious and nationalistic factors. India, guided by its principles, vows to protect refugees. [415] It demonstrates differential treatment towards diverse communities due to a combination of historical, global, and domestic political factors. [416] Consequently, access to necessities, assertion of economic and political needs, and attainment of uniform recognition from both state and international actors has become increasingly challenging for refugees due to the diverse architectures of documentation.

This thesis study is a valuable addition to the increasing body of research that supports the integration of refugee rights into the discourse on human rights. Following an extensive review and analysis of the literature, the study demonstrates the universality of the discourse on human dignity and human rights. This is evident in the emphasis placed by all international human rights instruments on the recognition of human dignity as a fundamental component of state governance. The concept of human dignity goes beyond mere physical attributes required for survival. It also encompasses the notion of "worthiness" or "excellence". This quality entitles individuals to be regarded, respected, and honored by others.[417] The research validates the conclusions drawn by Arendt and Weinert, stating that protecting the rights of marginalized

[415] Burra, S. (2022). India's refugee protection obligations beyond the 1951 Refugee Convention and the 1967 Protocol. *The Routledge Handbook of Refugees in India*, pp.183–191. doi:10.4324/9781003246800-14.
[416] Raj, P. (2020). Understanding Citizenship and Refugees' Status in India. *Economic and Political Weekly*, *55*(23), 31–34.
[417] Ranjan, R. (2015) 'Interrogating the Conceptualization of Human Dignity: A Human Rights Perspective.' Social Action Journal, Vol 65, No. 3, p. 26

refugees in a political society necessitates recognizing their inherent human dignity and capabilities, as well as the significance of membership and a sense of belonging for achieving socio-economic inclusivity among these 'aliens' within the state.[418] Addressing inequalities entails the imperative to provide equitable opportunities and resources to refugees, while recognizing the potential of each individual to achieve economic self-sufficiency. The discourse on capabilities emphasizes the provision of access to a range of goods and resources, employment opportunities, public services, and entitlements. This enables individuals to contribute to their well-being and lead meaningful lives, ultimately ensuring inclusivity and social justice.[419]

As established through the findings of this thesis, under the international humanitarian framework, host nations predominantly acknowledge individual refugee claims for admission, integration, or resettlement, in compliance with the guidelines established by the Refugee Convention, Protocol, and UNHCR, which are in accordance with the host nation's legal framework. However, for the majority of southern states, such as India, that have not signed the Refugee Protocol or convention and have a limited role for UNHCR in refugee management. The international refugee law regime lacks relevance due to the host nation's accommodation of large influxes of refugee groups, while the international refugee framework fails to consider the specific representations of refugee groups or communities. The current research study contributes to the expanding body of literature that underscores the significance of recognizing the viewpoints of refugees and other stakeholders in the development and execution of refugee protection and management frameworks, particularly for countries in the Global South. The focus lies on the transformation of both the international refuge management regime and its consequential impact on the domestic legal framework.

[418] Arendt, H. (1951). Origins of Totalitarianism. New York : Harcourt, Brace and Co. Weinert, M. (2015) 'Making Human: World order and the Global Governance of Human Dignity'. University of Michigan Press. 55-56

[419]Field, J, Tiwari, AD and Mookherjee, Y (2017) Urban refugees in Delhi: identity, entitlements and well-being. IIED Working Paper. IIED, London. October, 2017. Sen, A. (2005) 'Human Rights and Capabilities.' Journal of Human Development. Vol- 6,No. 2

Through a thorough analysis of the Tibetan exilic experiences, this thesis aims to redefine the discourse on domestic and international refugee regimes, exploring potential lessons that can be applied to establish a comprehensive and inclusive approach to refugee protection and management. Furthermore, the thesis study aims to elaborate on the consequences of enduring exile for over six decades on their livelihoods, as well as the gradual process of adaptation that resulted in creating livable conditions. It has become apparent that the processes of identification and learning inherent in exilic life are ongoing and iterative. These narratives are not about achieving satisfaction, but rather about ongoing challenges and constant transformation, lacking a clear start or end to the journey.

6.2.1 POSSIBLE SUGGESTIONS FOR DOMESTIC LAW REFORM DEBATES

i) Uniform Domestic Legislation- The results of this thesis study provides sufficient evidence that Tibetan case study demonstrates the presence of relatively effective mechanisms for entry, residence, and rehabilitation. These mechanisms include the Special Entry Permit, Registration Certificate, Identity Certificate, and Tibetan Rehabilitation Policy. These measures effectively regulate the entry, residence, travel outside Indian territory, and return of Tibetans, while also ensuring the accommodation of socio-economic rights upon the valid acquisition of the required documents. Although the current study is based on a small sample of Tibetan exile population in India, the findings suggest that by following a similar approach, it may be possible to establish a comparable procedural framework for other refugee groups, with the assistance of the UNHCR whilst complying with the international norms and standards for refugee protection and management. Moreover, the results of this study suggest that it would be advisable to extend this model and develop a national refugee legislation that has the potential to establish a comprehensive framework for all individuals seeking asylum and refuge within Indian jurisdiction. By examining the Tibetan case study, it becomes imperative to effectively manage the admission, determination of status, and documentation of refugees, while simultaneously prioritizing the rights and responsibilities of the refugees.

ii) Recognizing Group Identity- Scholars have stressed the current imperative of establishing a standardized domestic legislation for refugee protection in India, a necessity that is corroborated by the findings of this study. In the Indian context, a uniform legislation that applies to all may not be the most suitable approach, given the presence of multiple refugee groups with diverse political, social, and ethnic backgrounds, each having their unique historical ties with India. Conversely, findings from the present Tibetan case study have introduced a framework for exploring the possibility of acknowledging and protecting the collective identity of refugees as a mechanism for dealing with their state of exile. In order to accomplish this goal, it would be suitable to consider implementing an initial measure for a rehabilitation approach that is both effective and efficient. This measure would focus on the informal integration of refugee communities, with an emphasis on promoting socio-economic advancement, safeguarding their socio-economic rights, and fostering self-sufficiency. This would subsequently alleviate the strain on the host Nation, specifically India, in the current scenario. As the present thesis establishes through the Tibetan case study that consistent implementation of the Tibetan rehabilitation policy of 2014 would be beneficial for both categories of Tibetans who are ineligible or opt out of formal integration, particularly with regard to their citizenship rights. Therefore, the exile community would effectively achieve a twofold purpose: mitigating the host nation's burden through self-reliance and economic participation, while simultaneously safeguarding their own identity and culture from the risk of extinction. Regarding the host nation, achieving repatriation and resettlement options becomes more feasible once the refugee population achieves self-sufficiency and independence.

iii) Membership/ Citizenship Rights- As clearly established by the findings of this study, Tibetans in India experience disparities in laws and policies that govern their legal status and membership rights. A possible solution entails the consistent enforcement of existing citizenship laws as stipulated in the Citizenship Act of 1955 (Amendment 1987), while

concurrently establishing fair regulations for Tibetans seeking Indian citizenship. Additionally, it is important to address the requirements of Tibetans who are currently excluded from this legislation. Considering the recent amendment (CAA 2019) made to the Citizenship Act, it is noteworthy that various refugee groups, such as Tibetans, were deliberately omitted. The thesis study at hand offers strong contentions for expanding the eligibility for granting citizenship through naturalization to Tibetans and other refugee groups in India. This is based on the recognition of the manifold socio-economic rights and benefits that are associated with being a citizen of a polity. The ongoing research confirms the findings of several other significant studies that it is justifiable and viable to consider the possibility of granting citizenship through naturalization to refugee groups within the Indian territory who have residing for an extended period of time under uncertain circumstances.

iv) Effective Implementation Mechanism- The evidence from the Tibetan case study and available literature strongly supports the notion that India must establish an umbrella legislation to resolve the bureaucratic challenges and ad hoc procedures associated with refugee management. Simultaneously, there is an imperative requirement to establish subsidiary institutions, both governmental & non-governmental, at the state and district levels to ensure efficient enforcement of laws and policies, as well as addressing grievances. This thesis study presents a distinctive illustration using the Tibetan case study, exemplifying the successful interaction between the CTA and the GoI, both at the national and regional level, regarding discussions on rehabilitation, resettlement, legal procedures, and documentation policies. The results of this study demonstrate that the CTA functions as a representative organization, engaging in discussions with the Indian government, NGOs, UNHCR, and other international organizations. Their focus is on addressing the challenges and proposing workable solutions for the sustenance of the Tibetan exile community. Its function is to serve as a mediator, facilitating ongoing negotiations between the Indian government, NGOs, and elected officials of the CTA, resulting in enactment of policies like the Tibetan Rehabilitation Policy 2014.

Therefore, the findings derived from this specific case study in Tibet hold significance for practitioners and policy-makers alike. They shed light on the importance of establishing subsidiary organizations that can foster meaningful interaction between the Indian government and refugee communities, with the aim of developing fair legislation, rehabilitation programs, and resettlement policies.

6.2.2 ROLE AND AGENCY OF THE CENTRAL TIBETAN ADMINISTRATION: ALTERNATIVE DISCOURSE IN INTERNATIONAL REFUGEE MANAGEMENT

This thesis study enhances our understanding of reevaluating international frameworks for refugee management by providing significant insights into the role and authority of the CTA as a representative institution for the Tibetan exile community. The Tibetan exile community is a testament to the importance of maintaining a collective identity for refugee communities, serving as a means of survival and resilience in the host country. Perhaps the CTA has demonstrated effectiveness in fostering self-reliance within the Tibetan community, thereby contributing to the burden-sharing responsibilities of the host nation, namely India. The Tibetan exile community, represented by the Central Tibetan Administration, has implemented a systematic approach to express their requirements and aspirations. This aims to serve the shared interests of their community, the Indian Government, and to gain international backing for their cause of reclaiming their homeland, Tibet.

This thesis draws from the works of Chimni who suggests that a dialogic model involving states, NGOs, academics, UNHCR, and the voices of refugees and refugee groups should be established, both within and between the UNHCR, NGOs, and governments.[420] While acknowledging the necessity of discussing changes to the international framework, it is imperative to recognize the existence of millions of displaced individuals. The sheer magnitude of the population makes it nearly unfeasible to engage in direct conversations with each refugee,

[420] Chimni, B.S. (2017). Reforming the International Refugee Regime: A Dialogic Model 1. *International Refugee Law*, pp.411–428. doi:10.4324/9781315092478-18.

address their specific issues, and accurately document their information. Therefore, it is evident that there is a requirement not only for discourse but also for a dedicated organization or institution that facilitates such conversations with refugees. This agency has the potential to act as the representative voice for a specific refugee community. It has the capacity to function as a conduit connecting the refugee community with essential international entities. Chimni proposes that the organization could operate independently yet remain subordinate to both the UNHCR and the sovereign governments. Therefore, the establishment of a representative sub-institution for refugee communities would not only provide them with a voice in the development and implementation of legal frameworks that govern them but also address their fundamental need for a sense of belonging within the host nation.[421]

Based on the existing literature and findings of this research study, it can be concluded that the Tibetan exile community in India is regarded as a model refugee group. This is attributed to two key factors. First, the GoI provides direct assistance and management to Tibetans in India. Second, the establishment of the CTA is noteworthy. By examining the Tibetan exile community, this study reveals the essential role of upholding a collective identity for refugee communities, serving as a means of survival and adaptation in the host country. Additionally, this research study offers significant insight into the role and agency of the CTA as a representative institution for the Tibetan exile community. By considering the theoretical evidence and the narratives of Tibetans in this study, one can confidently state that the partnership between India and the CTA, a semi-sovereign organization, has facilitated the political organization, cultural preservation, and sense of connection to their homeland among the Tibetan community. Despite the conflicting position of Tibetans in India, they derive numerous benefits from the generous and inclusive state policy that permits them to settle, enhance their economic welfare, and support their education. The CTA plays a significant role in addressing diverse daily concerns related to education, employment, health, finances,

[421] Chimni, B.S. (2017). Reforming the International Refugee Regime: A Dialogic Model 1. *International Refugee Law*, pp.411–428. doi:10.4324/9781315092478-18.

international relations, cultural preservation, identity, as well as the arrival, relocation, and integration of refugees, as explained below.[422]

i) Role in Organizing the Tibetan Exile community- The present study has documented the impact of the cooperation between India and semi-sovereign organizations like the CTA which has played a crucial role in enabling the Tibetan community to politically organize themselves, safeguard their culture, and foster a strong bond with their homeland. Besides addressing daily concerns pertaining to education, employment, health, finances, international relations, cultural preservation, and the arrival, relocation, and rehabilitation of refugees, the Tibetan community serves as a global benchmark for studying a self-reliant and sustainable refugee group. The findings of this study along with other scholarly research contribute significantly to our understanding of how the CTA has successfully fostered self-reliance within the Tibetan community. This includes areas such as education, employment, housing, and healthcare, effectively sharing the burden of responsibility with the host nation, India.[423]

In order to promote the shared interests of the Tibetan community in exile and the Indian Government, the CTA has adopted a channelized method to articulate their needs and desires, both domestically and globally. The study confirms that by assuming the role of a mediator, it creates an environment for ongoing negotiations between the GoI, NGOs, and elected officials of the CTA. The Tibetan case study as presented in this thesis can serve as a model for collaboration among different stakeholders, including host countries, civil society organizations, and international organizations, to develop creative solutions beyond the scope of the international framework. These solutions may include increasing self-reliance opportunities, alleviating the burden on host nations, and sharing responsibilities for managing the situation. This contributes to the assessment of the practicability of the objectives outlined

[422] Rana, H.S. (2022). Tibetan community in exile. *The Routledge Handbook of Refugees in India*, pp.749–763. doi:10.4324/9781003246800-70. Chimni, B.S. (2017). Reforming the International Refugee Regime: A Dialogic Model 1. *International Refugee Law*, pp.411–428. doi:10.4324/9781315092478-18.
[423] Rana, H.S. (2022). Tibetan community in exile. *The Routledge Handbook of Refugees in India*, pp.749–763. doi:10.4324/9781003246800-70.

in the Global Compact on Refugees, such as alleviating pressure on host countries, promoting refugee self-reliance, adopting an effective multi-stakeholder approach, and sharing burden responsibilities. These objectives were widely affirmed and supported by countries in the Global South, including India.

ii) Role as a Mediator to empower the voice of Tibetan exile community- One of the main strengths of this study is its emphasis on the role of The Central Tibetan Administration, which serves as the representative entity for the Tibetan exile community. The organization has been instrumental in advocating for the inclusion of refugee narratives in the development of legal and policy frameworks aimed at rehabilitating the Tibetan exile population. The intention behind this is to gather worldwide assistance for a secure and voluntary return to their country of origin. The evidence presented pertains to the case of Tibetans in exile who are actively seeking assistance from the international community. Their objective is to facilitate their relocation to Tibet and engage in negotiations for repatriation, all in pursuit of achieving authentic autonomy (e.g. The U.S.A. recently passed the Tibetan Policy Support Act 2020).[424] Additionally, the present study reveals that Tibetans in exile can also be perceived as empowered individuals who transcend territorial boundaries and negotiate their status within the realm of international refugee law discourse and policy-making. The affirmation of the Tibetan exile community's ability to organize themselves as a refugee community in the host nation, along with stabilizing their position, stems from ethnographic interviews and the lived experiences of Tibetans in Leh, Dharamshala, and Darjeeling. This has been made possible through the presence of the CTA as a representative institution, which has

[424] Yangchen (2020). *CTA successfully lobbies US Senate for the passage of the landmark Tibetan Policy and Support Act 2020*. [online] Central Tibetan Administration. Available at: https://tibet.net/cta-successfully-lobbies-us-senate-for-the-passage-of-the-landmark-tibetan-policy-and-support-act-2020/ [Accessed 10 Feb. 2024].

effectively addressed matters pertaining to housing, education, employment, culture, and identity.

The study provides concrete evidence through comparative narratives of Tibetans in exile in India that the CTA has acted as an intermediary among the Union government, different state governments, and international NGOs. Additionally, it has maintained an ongoing dialogue with the Tibetan exile population and the GoI to establish policies governing them, such as the Tibetan Rehabilitation Policy 2014. Furthermore, the study reveals that the CTA functions as a representative body, engaging in dialogues with the Indian government, NGOs, UNHCR, and various international organizations to address the challenges and propose viable solutions pertaining to the well-being of the Tibetan exile community. The manner in which the CTA operates, with elected ministers overseeing various departments such as education, security, home affairs, and information and international relations, serves to unite and coordinate the Tibetan diaspora across different states in India, as well as with numerous international non-governmental organizations. To negotiate daily and ensure long-term survival, various matters need to be addressed, such as entry and settlement documents, housing in Tibetan settlements, the establishment of Tibetan schools, the creation of employment opportunities, funds for scholarships, and rehabilitation policies. The CTA's substantial influence in the daily lives of Tibetans cannot be overlooked, and it is the key factor behind their success as an exilic community. Nevertheless, the Tibetan community has encountered certain challenges throughout their years in exile, leading to inquiries regarding the role and pertinence of the CTA.

iii) Preserving culture and identity of the Tibetan exile community - Since their arrival in the country, the Tibetan exile community in India was exceptionally fortunate owing to the ongoing support extended to them by both the CTA and the GoI. Not only have the Tibetan exile population in India achieved self-sufficiency, but they have also effectively reconstructed their social, political, and religious institutions during their exile. This thesis study confirms

previous findings and contributes additional evidence that suggests that the role of the CTA as a governing body within the Tibetan exile community, has achieved a degree of success in its endeavors to preserve the culture and identity of the community, offer educational and rehabilitation opportunities, foster self-reliance, and sustain the Middle Way Method of the Tibetan movement.[425] While the Tibetan exile community is governed by a proficient exiled government operating within Indian boundaries, characterized by its independent democratic structure, constitution, and widely accepted 'legitimate sovereignty' among the Tibetan exile community. However, due to the lack of official recognition by the Indian Government, the CTA remains subordinate to the Government of India in all aspects of its operations. The realization of the CTA's objectives for the Tibetan community has been made possible solely due to the support of the Indian Government at both the state and central levels.

This thesis study suggests that the Indian government has repeatedly allowed and assisted the CTA to function as a sub-institution in dealing with its internal matters related to the Tibetan exilic population. While ultimate authority lies with the Indian Government, granting the CTA the ability to operate as a self-governing body empowers them to effectively organize the Tibetan population. This has not only been advantageous for the Tibetan community in exile but has also assisted the GoI in managing the substantial influx of Tibetans living throughout the country. To put it differently, the CTA, under the supervision of the GoI, has established a "second homeland" in India. This not only serves as a hub for the Tibetan exiles, but also functions as a recognized governing body for the majority of Tibetans.

[425] The Middle-Way Approach seeks to peacefully resolve the Tibet issue and foster equality and cooperation between Tibetans and Chinese. It is a policy adopted through democratic discussions by the Central Tibetan Administration and the Tibetan people. Tibetans refuse to acknowledge China's authority over Tibet. Simultaneously, their objective does not encompass the pursuit of independence for Tibet, a matter rooted in history. Treading a middle path in between these two lies the policy and means to achieve a “genuine autonomy for all Tibetans living in the three traditional provinces of Tibet within the framework of the People’s Republic of China. This approach is known as the Middle-Way Approach, which adopts a non-partisan and moderate stance to protect the crucial interests of all involved parties. For Tibetans, this includes safeguarding their culture, religion, and national identity. For chinese to maintain territorial security and integrity and for third parties peaceful borders and international” relations. See, https://tibet.net/important-issues/the-middle-way-policy/

Additionally, the study's findings suggest that the main objective of the CTA is to improve communication between local authorities within states, as well as national and international NGOs, and the Government of India (GoI). By considering the theoretical evidence and narratives of Tibetans in this study, it can be inferred that the partnership between India and semi-sovereign organizations, like the Central Tibetan Administration, has played a crucial role in enabling the political organization, cultural preservation, and emotional connection to their homeland for the Tibetan community. The Tibetan case study in this thesis presents a possible framework for cooperation among various stakeholders, such as host nations, civil society groups, international organizations, and other refugee communities. In order to explore innovative solutions that go beyond the international framework, potential approaches include the promotion of self-reliance, the reduction of the burden on host nations, and the sharing of responsibilities.

6.3 WHY STUDY TIBETAN EXILE COMMUNITY: PAVING WAYS FOR FUTURE RESEARCH

The relevance of my doctoral work and its contribution to the advancement of knowledge is observable across multiple interconnected levels, encompassing the realms of socio- legal analysis, methodology, and the geopolitics of international refugee law. First, this thesis illustrated the fluid and constructed nature of contemporary political identities of marginalized refugee populations, like Tibetans, in India. The continuous redefinition of these identities is shaped by historical, cultural, and geopolitical forces. Second, the thesis outlined India's inconsistent politics and policies, characterized by arbitrariness, towards Tibetans and other refugee groups in the country. Within the Government of India, a peculiar political ideology exists at the intersection of altruism, religious alignment, humanitarian interests, and geopolitical factors, and has consequences for diplomatic ties with neighbouring nations like China, as in the context of Tibetans. Its impact is contingent upon the prevailing political regime and considerations of border protection. Third, the research study traced the process by which

Tibetans in India validate their presence using a wide range of identity cards that confirm their Tibetan and Indian affiliations and residency. Tibetans utilize various identity cards, such as the Registration Certificate, Aadhaar card, and Identity certificate, to effectively obtain a diverse range of social and political advantages, thus significantly enhancing their everyday social existence. Fourth, the study examined the changes in the understanding and implementation of Indian Citizenship following the introduction of the CAA 2019, which displayed preferential treatment towards specific migrant and ethnic communities while excluding Tibetans from acquiring citizenship through naturalization. Finally, my principal discoveries emphasized the conflicts surrounding and disputed essence of the notion of a true Tibetan national, and how a unified Tibetan exilic identity or Tibetanness is a contested and invented paradigm, which relies on the utilization of historical, linguistic, and cultural resources in the process of becoming, rather than simply being, a Tibetan. Since 1959, the presence – and absence – of the Indian state and its laws became a new and crucial variable in this process.

I believe there is an eminent need to reinvigorate the discourse surrounding the socio-legal complexities confronted by the Tibetan exile community. With over 60 years in exile, the collective and organized image of Tibetans as a self-reliant exile community is now showing signs of strain on both the global and domestic fronts. My research clearly highlights the progress made by them, which should not be overlooked - nor should the contributions of the Indian state. However, it is crucial to acknowledge and comprehend the practical realities concerning the shifting aspirations of Tibetan youth, as well as the interplay and interaction among the Tibetan community, Indian State actors, and the CTA. At the same time, one needs to re-evaluate the efficacy of socio-economic rights in a refugee context, and corresponding intragroup marginalization and exclusion, disparities in rights claims, limbo status, and the multidimensional influence of social, legal, economic, and political factors.

For future research on the Tibetan exile community, my thesis provides a new map for understanding realities of legal limbo, its causes and consequences, and implications for the aspirations of the Tibetan exile population in India. I suggest several pathways for future

research on Tibetan exile community. Further comprehensive and interdisciplinary research endeavours could examine long-term consequences of obtaining Indian citizenship for 2nd and 3rd generation Tibetans living in India. This investigation could explore the potential influence on their choices concerning higher education, employment opportunities, relocation abroad, as well as their involvement in political activism advocating for Tibet's freedom. Additionally, such researchers could examine the potential impact of citizenship on the future of de-facto refugee, de-jure "post-refugee" Tibetans in India. Considering the constraints within my thesis study, at the same time supported by existing literary evidence in the thesis. Based on my analysis, I have proposed that the Indian government bears the responsibility for meeting the practical demands of the Tibetan exile community in India. Partly influenced by its previous humanitarian approach towards the Tibetans since their arrival and the present-day responsibility sharing commitments mentioned in the Global Compact of Refugees and international humanitarian instruments like UDHR, ICCPR and ICESCR, of which the Government of India is a signatory. To further advance this research study a thorough examination of the GoI's obligations regarding refugee protection and management needs to be conducted.

Considering the intricate dynamics between the Tibetan exile experience, the Indian Government, the Central Tibetan Administration, and global refugee discourse, another alternative avenue for research could be a comparative analysis of Tibetan return movements, embracing the reality of political mobilization worldwide, but in different shapes within in Tibet, India, and other parts of the world. My own work on the Tibetan exile case showcased both liberating as well as stagnant portrayals of the stateless diaspora residing in India across more than six decades. On one hand, my conclusions support the community's sense of triumph in persevering and rebuilding their lives in the Indian host nation through a self-sufficient resettlement process. By prioritizing the conscious values of safeguarding the collective identity of the Tibetan community and active resistance against assimilation through citizenship, they establish and constantly reassert the justification for their exile. Conversely, this position entails exclusion from several civil, political, and socio-economic rights for Tibetans born in exile.

This includes restrictions on business ownership, pursuing professional careers, and access to educational opportunities. In a broader sense, my case study on Tibetans in India has significant implications for future research on refugee law in general. It highlights the necessity of bridging the gaps between theoretical, legal, and institutional frameworks for refugee protection and locally negotiated socio-legal practices, not only in India but also in other locations.

Through innovative comparative ethnographic field studies, my thesis has successfully portrayed how laws and gaps within law transformed the hope and reality of return within the Tibetan diaspora in India. The pathways laws have opened or closed shaped strategic political, social, cultural, and legal advancements that subsequently profoundly influence the current state and future trajectory of the Tibetan exile community. Thus, my thesis provides new and valuable insights with respect to administrative and political practices of the Central Tibetan Administration (CTA), asymmetric socio-legal dynamics with the Indian Government at state and union level, intra-marginalization and exclusion within the Tibetan exile community, disparity of laws and policies formulated by the Indian government and most importantly the state of limbo in which the Tibetan exilic community exists. Parts of Tibetan exile community in India therefore manages to maintain their collective desire for cultural continuity and statelessness as a display of patriotism towards the Tibetan Movement while young Tibetans manage to pursue their desire for socio-economic mobility through Indian citizenship or migration to Western countries.

Through an ethnographic analysis of divergent exilic experiences within the Tibetan community, my fieldwork traces an interaction between law and the emergence of differing discourses of aspiration within the Tibetan Exile community in India. In broad terms of politics, the vast majority of the Tibetan exile diaspora remains united in their hope and belief in the vision of His Holiness Dalai Lama and the Central Tibetan Administration's 'Middle Way Approach' and continue to anticipate its implementation as a practical solution to achieve genuine autonomy for Tibetans in exile before their eventual return to Tibet. In terms of individual preferences, socio-legal realities faced by younger generations of Tibetans in India

as they embark on their own journeys of exile bring them face to face with different sets of choices determined by law. In contemporary India, and in contrast to first-generation Tibetans, the open path of Indian citizenship as well as the pathways India's legal limbo keeps closed for the second and third generation Tibetans - the actual future of Tibet's stateless community in exile as an aggregate of choices shaped by law may thus look very different than the political aspirations of identity.

CHAPTER 7
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Appendix A

Interview Protocol: Negotiating Socio-Legal Challenges in Exile: Tibetans in India in a State of Limbo

Date:

Name of Interviewee:
Age:

Place of Birth:

Nationality:

Place of Dwelling:

No. of Family Members (Marital Status):

Educational Qualification:

Occupation:

Through this ethnographic research I want to understand the views of Tibetan refugees in accepting or refusing citizenship rights in India; their doubts, beliefs, moral and social obligation towards their community and government. Their insight on preserving Tibetan Identity- spirit of belongingness and loyalty towards the cause of Free Tibet.

Question:

1. Are you aware about the legal status of Tibetan in India? Level of awareness about Indian Citizenship application procedure and eligibility. Have you considered taking Indian Citizenship? If yes, why? If no, why?

2. What is the level of access to socio-economic benefits/ rights, education? employment, healthcare. What is role of CTA and Indian State Governments in giving assistance in access and universal disbursement of welfare schemes, if any. Knowledge about Tibetan Rehabilitation policy and its implementation.

3. Group inclusion or exclusion, being treated as 'outsiders' in the Ladakh, Dharamshala and Darjeeling in terms of residence, employment, co-existing with local population.

4. What does it mean to be a Tibetan? Spirit and essence of 'Tibetan Nationality' and 'Rootedness'? meaning of Sense of Belongingness and preserving Tibetan identity.

5. What has been the role of CTA in giving access to information and assistance for taking Indian citizenship? Status of CTA in Indian context- governance and viability, legal empowerment, formal and informal workings of law, integration with local population.

6. What is the vision of CTA and future of the Tibetan community w.r.t. legal status for Tibetans in India? Middle Way Approach – Umalayam as a way to go back to Tibet.

Thank you, for answering all of my questions and giving me your time. I assure you that your name or the recording of the interview will remain confidential. If and when I have more questions, I request you to give me some more time.

Appendix B

Consent Form for the study: Negotiating Socio-Legal Challenges in Exile: Tibetans in India in a State of Limbo

Hello,

My name is Ambika Verma and I am a Ph. D student at the O. P. Jindal Global University. As a part of the project on "**Negotiating Socio-Legal Challenges in Exile: Tibetans in India in a State of Limbo**", I would like to interview you. In case you agree, the interview should take about 45 minutes to answer. If you refuse to participate there will be no penalty whatsoever.

Do you agree to be interviewed for this Project? *(If yes, continue. If no, thank him/her for his/her time)*

Your participation will be completely anonymous, and under no circumstances, your identity, i.e. name, location will be revealed either directly or indirectly. As a part of this Project, I may be required to record the interview subsequent to your voluntary consent. No recording, under any circumstances will be distributed or shared with any third party and will be stored safely.

If you would feel uncomfortable answering some of my questions, you may at any time choose not to answer. As your participation is completely voluntary, you may also choose to withdraw your consent at any time and any answers you have provided so far will then be discarded.

In writing up the final study results, I may be required to quote you directly. However, your name will of course not be stated, and as I have said earlier, will remain completely anonymous.

If you still feel that you would like to participate, please sign below.

_____

Signature of participant

_____

Name of the Researcher

_____

Signature of the Researcher

Appendix C

List of Interview Schedules conducted from 2018- 2022 (Confidential, shall be produced if required)

Sonamling Tibetan Refugee Settlement, Leh (Ladakh)

1. Interview of Chief Representative Officer – Tensen Wangchuk
2. Interview of Justice Commissioner – Lobsang
3. Interview of CEO Tibetan Co-operative Society – Karmayishi
4. Interview of TCV school Principal – Lundhup Namgyal
5. Interview of TCV Director – Chemey Lundup
6. Interview of Executive Secretary Primary Health Clinic – Karma Genden
7. Interview of Nurse at PHC – Dolma Yangchen
8. Interview of Nurse at PHC – Sidol Wangmo
9. Interview of TCV school Headmistress – Prema Dolma
10. Interview of Accountant CRO office – Thaya Chodon
11. Interview of Secretary CRO – Tsering Dolkar
12. Interview of Camp No.5 leader – Dohla
13. Interview of camp resident – Tsering Choezom
14. Interview of camp resident - Soni
15. Interview of camp resident – Lobsan Nedak
16. Interview of camp resident – Dhondup Tsomo
17. Interview of camp resident – Sonam Dolma
18. Interview of camp resident – Damdul
19. Interview of camp resident – Sonam Chodon
20. Interview of camp resident – Sonam Tsering
21. Interview of camp resident – Tenzin Nyima
22. Interview of camp resident – Konchok Gurmey
23. Interview of camp resident – Dawa Nordhen
24. Interview of camp resident – Dolma
25. Interview of camp resident – Tsering Tsomo

Tibetan Cluster Settlements, McLeod Ganj, Dharamshala

1. Interview of camp resident – Norbu
2. Interview of camp resident – Lhamo
3. Interview of camp resident – Tenzin Soldon
4. Interview of President Tibetan Youth Congress – Gonpu Dhundup
5. Interview of member of Tibetan Youth Congress – Sonam Tsering
6. Interview of President of Tibetan Women Association – Dolma Yangchen
7. Interview of Tibetan Activist – Lobsang Wangyal
8. Interview of Member of Tibetan Parliament- Namgyal Dolkar
9. Interview of member of Tibetan center for Human Rights and Democracy- Tenzin Dawa
10. Interview of Minister of Department of Information and International Relations – Mr. Karma
11. Interview of Director Tibet Policy Institute – Mr. Tenzin Lekshay
12. Interview of President Student for Free Tibet (India Chapter) – Rinzin Choedon
13. Interview of Secretary National Tibetan Democratic Party – Tashi Dhondup

14. Interview of Additional Secretary Department of Home – Mr. Dawa Tsultrin
15. Interview of International Coordinator International Tibet Network (NGO)- Tenzin Jigdal
16. Interview of camp resident – Tsering Phuntsok
17. Interview of camp resident – Tashi Chogden
18. Interview of camp resident – Chemi Choedon
19. Interview of camp resident – Lundhup
20. Interview of camp resident – Rinchen Sangmo
21. Interview of camp resident – Jigme
22. Interview of camp resident – Tenzin Dolkar

Tibetan Cluster Settlements and Tibetan Refugee Self- Help Centre, Darjeeling

1. Interview of Settlement Officer – Tenzin Nordhen
2. Interview of Settlement Secretary – Tenzin Tsultrin
3. Interview of Camp resident – Tsering Norbu
4. Interview of President Tibetan Refugee Self- Help Center – Jampa Tenzin
5. Interview of Camp resident – Tsering Choden
6. Interview of Camp resident – Kunchok Dolma
7. Interview of Camp resident – Tenzin Dhundup
8. Interview of Camp resident – Lobsang Tsomo
9. Interview of Camp resident – Karma
10. Interview of Camp resident – Gonpu Wangyal
11. Interview of Camp resident – Tenzin Dolkar
12. Interview of Camp resident – Pema Tsomo