



India – Researched and compiled by the Refugee Documentation Centre of Ireland on 8 January 2019

Information on the treatment of members of the Jaat community returned to India

Information specifically referring to the treatment of members of the Jat community upon return to India was not found among sources available to the Refugee Documentation Centre.

The 2017 US Department of State country report for India, in a section titled “Freedom of Movement”, states:

“The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights.” (US Department of State (20 April 2018) *2017 Country Reports on Human Rights Practices – India*, p.27)

An Immigration and Refugee Board of Canada response to a request for information on the treatment of Indian citizens deported back to India states:

“In a telephone interview with the Research Directorate, a staff attorney for Voices for Freedom (VFF), an international human rights NGO serving India, Canada, the UK and the US with the objective ‘to publicize the plight of the oppressed’, stated that while she was not aware of cases in which failed refugee claimants were returned to India, she expressed the opinion that their treatment on arrival is ‘likely to be on a case-by-case basis’.

In a telephone interview with the Research Directorate, the South Asia Director of Human Rights Watch said that ‘there is no problem’ for failed refugee claimants or other deportees to return to India, provided that they are not accused of a crime back home. She explained that

[a]uthorities are aware that there are people who claim refugee status for economic reasons and these people are not treated badly. ... However, if the person was wanted for a political crime or other crime in India, then they would face arrest.” (Immigration and Refugee Board of Canada (9 May 2016) *India: Treatment by authorities of Indian citizens who are deported back to India, who return without a valid passport and/or who are suspected of having requested refugee status while abroad (2013 May 2016)*)

This response also states:

“In correspondence with the Research Directorate, the Executive Director of the Society for the Study of Peace and Conflict (SSPC), a New Delhi-based research organization focussed on ‘issues relating to peace, conflict and human development’, said that failed refugee claimants who are returned to India should not face any punishment if they were not involved in trafficking or

other criminality (SSPC 29 Apr. 2016). However, he also said that if the person was attempting to obtain refugee status elsewhere, 'stringent scrutiny' would be applied upon return, and the person could be 'considered a foreign national' if he or she could not produce documentation to prove his or her Indian nationality. The Executive Director also noted that the treatment of the returnee 'depends on the situation and the person'. The same source indicated that if the person is deported and has a travel document from an Indian consulate abroad instead of a valid passport, the immigration authorities could detain them and conduct verification 'for a prolonged time until the authority is satisfied'. The Executive Director explained that the deportee would be subject to 'scrutiny,' including checks by the Ministry of Home Affairs and the Ministry of External Affairs, and might face a 'monetary fine/jail or deportation back to his departure destination'. Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, a representative of the UNHCR, who contacted UNHCR staff in Delhi, said that the following information, originally provided to the Research Directorate by the UNHCR in 2005, continues to be accurate:

Indian nationals who returned after having their asylum applications rejected abroad did not have problems if they returned with valid travel documents, and, if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on departure and return to India might be prosecuted. Refused ... asylum-seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reason for this." (ibid)

A Danish Immigration Service report on a fact-finding mission to India in 2000, in a section titled "Controls on arrival", states:

"UNHCR observed that judging by their general information on Indians who returned after having their asylum applications abroad rejected returnees did not have problems if they returned with valid travel documents and if their departure had also taken place with valid travel documents. Those who had not complied with Indian laws on leaving and arriving in India might be prosecuted. According to the Passport Act the maximum punishment was two years' imprisonment or a fine of a maximum of 5 000 rupees (approx. DKK 800).

According to the UNHCR, refused Indian asylum seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and could then leave the airport. If the fact that the person returning had applied for asylum/refugee status abroad had not come to the knowledge of the Indian immigration authorities then he would not attract any particular attention other than prosecution for breaking the passport law.

The UNHCR also remarked that in cases where the Indian authorities became aware that the person returning had been refused asylum, it was likely that the immigration authorities would detain the person in question

briefly for questioning and then release him, unless he aroused their suspicion by his behaviour or was being sought by the Indian security services. Those in the latter group would be thoroughly questioned and if they were wanted, would be handed over to the security force in question. According to information available to the UNHCR, such questioning in international airports had not led to the use of violence. However, it could not be said with certainty what might eventually happen to those arrivals who were wanted by other security forces and were handed over to them. Strictly speaking they should appear before a judge within 24 hours. However, legal rights were not always observed, e.g. torture took place, as did other human rights abuses such as a lack of medical treatment during detention, etc.

However, it would not be seen as an offence to have sought asylum in another country unless the person in question had connections with a terrorist group or a separatist movement and could be connected with activities which might damage India's sovereignty, integrity or security, or activities which might have a harmful effect on India's relations with other countries.

For Indian asylum seekers who were already wanted by the Indian authorities for earlier offences such as alleged involvement in a terrorist group, arrival in India would certainly lead to prosecution wherever the Indian citizen landed or went afterwards. According to UNHCR the Indian system is effective in tracing people who run from justice, even though it is not fully computerised. Thus it would depend entirely on the luck of the Indian national in question if he was able to avoid the administrative authorities on arrival and live in hiding elsewhere in India. According to UNHCR earlier cases of bribery at airports are not relevant in this context, as the authorities have launched a massive campaign against corrupt officials, particularly in the international airports." (Danish Immigration Service (1 September 2000) *Report on the Fact-finding Mission to Punjab (India): The Position of the Sikhs (21 March to 5 April 2000)*, pp.50-51)

A 2004 article from UK newspaper The Times states:

"Hundreds of failed Indian asylum-seekers will be sent home under a deal reached by the Government as part of its campaign to increase the number of people deported from the UK.

Under the pilot scheme, which will run for 12 months, the Indian Government has promised to provide failed asylum-seekers with travel documents within three months so that they can be removed from the UK more quickly.

In the past it has taken up to two years for the Indian authorities to issue new passports in some cases. During the first nine months of 2003, a total of 1,790 people from India claimed asylum in Britain. In the same period 15 applicants from India were given asylum, and between January and June 2003, 140 were removed.

The scheme was formally agreed yesterday by David Blunkett, the Home Secretary, who is on an official visit to India and Pakistan. In Delhi Mr Blunkett said the agreement would reduce the delay in returning Indians who destroyed their travel documents." (The Times (31 January 2004) *India speeds return of failed asylum-seekers*)

An article from India Abroad, a US-based newspaper for Indian expatriates, states:

“Although violent police repression in Punjab, which was the order of the day at the height of militancy in the 1980s, has since died down significantly, many young Sikhs along with other Indians continue to come to the U.S. seeing asylum. Experts say their reason is not always political.

‘The political basis for applying for asylum during the 80s might have been quite high but then one could argue that there is a democratic government in Punjab for the past many years, and it has sometimes been led by the Akali Dal party, believed to be the Sikhs’ party,’ said Muzaffar Chishti, director of Migration Policy Institute’s office at New York University School of Law, in an interview with India Abroad.

“So, the argument of political persecution does not seem to hold at all these days as far as people from Punjab are concerned.” (India Abroad (30 June 2018) *Asylum America: Why more Indians are seeking refuge*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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