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- **Title:**
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) [IND105497.E]
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- **Countries:**
India
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Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

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) [IND105497.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

According to the US Department of State's Country Reports on Human Rights Practices for 2015, Indian law "provides for freedom of internal movement, foreign travel, emigration, and repatriation," and the government "generally respected these rights" (US 13 Apr. 2016, 26).

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" (VFF n.d.), 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" (VFF 26 Apr. 2016).

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 (Human Rights Watch 28 Apr. 2016). 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. (ibid.)

According to *Country Reports 2015*, Indian authorities generally cooperated with the UNHCR and humanitarian NGOs in providing protection and assistance to returning refugees, among other groups (US 13 Apr. 2016, 26).

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" (SSPC n.d.), 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 (ibid.). The Executive Director also noted that the treatment of the returnee "depends on the situation and the person" (ibid.). 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" (ibid.). 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" (ibid.). 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. (UN 26 Apr. 2016)

According to the website of India's Bureau of Immigration, Ministry of Home Affairs, Indian citizens travelling abroad are required to have a valid Indian passport and a visa for the destination country, if required, prior to departure (India n.d.a). The same source notes that citizens who have an "Emigration Check Required (ECR)" category of passport require clearance from the Ministry of Overseas Indian Affairs for some destinations [1] when travelling on an employment visa (ibid.). The Bureau of Immigration website also states that Indian citizens are required to have a valid Indian passport or a travel document issued by Indian authorities in order to re-enter India (ibid.). The Bureau of Immigration also notes that immigration authorities conduct an immigration check on all passengers both at the time of departure and arrival and stamp the person's passport accordingly (ibid. n.d.c).

The UN representative said that "[t]he legislation or guidelines pertaining to Indian returnees are governed by Indian immigration laws. There may be specific administrative instructions on the treatment of returnees to India where there are security concerns, however, such instructions are not available in the public domain" (UN 26 Apr. 2016).

The VFF staff attorney stated that people who are deported back to India are "given a hard time and are interrogated for a longer time compared to others" (VFF 26 Apr. 2016). The UNHCR representative said that, based on media reports, "some returnees have been questioned in detail at Indian airports" (UN 26 Apr. 2016). Media sources report of cases from January 2016 in which Indian students, who were deported from the US to India because the universities at which they were planning to study had been "blacklisted" by the US authorities, were held at the airport for several hours (*The Times of India* 11 Jan. 2016; *The Hindu* 4 Jan. 2016). In one case, the *Hindu* reports that 21 deported Indian students were delayed for more than three hours at the immigration counter at Chennai airport (*The Hindu* 4 Jan. 2016). However, immigration authorities at the airport reportedly stated that the students "were only questioned and they were not detained or arrested" (ibid.). In another case, the *Times of India* reports that 16 deported Indian students were held at the Hyderabad airport for eight hours for "paperwork," even though they had "valid documents" (*The Times of India* 11 Jan. 2016). The article states that the students were released after a deputy chief minister, who was at the airport after returning from a trip, intervened on the students' behalf and instructed airport authorities to release them (ibid.).

When asked whether age, ethnicity, religion and/or political affiliation were factors affecting treatment of returnees by immigration officials, the South Asia Director of Human Rights Watch stated that they were not factors, "[unless] the official found the person to be suspicious in some way" (28 Apr. 2016). The Executive Director of SSPC said that Indian authorities do not profile individuals based on race or religion, but if someone was coming from a war zone, such as Syria or Iraq, they would be subject to "[u]sual questioning or monitoring of movements can be undertaken" (SSPC 29 Apr. 2016). New Delhi Television (NDTV), a "news and lifestyle" television network in India (NDTV n.d.), reports on a case in which nine Indian citizens, who were held close to Syria and deported to Bangalore on 30 January 2015, were questioned by the city police and central government agencies at the airport when they returned, but that the Bangalore Police Commissioner explained that the deportees "had neither been arrested nor detained; they were only being questioned about why they were headed to Syria" (NDTV 1 Feb. 2015).

The VFF staff attorney was aware of some cases involving members of the Sikh diaspora in which immigration officials "searched their luggage and 'found' things, such as bullets, which had not been there" (VFF 26 Apr. 2016). She expressed the opinion that this "may be for both corruption and political issue[s]" (ibid.). She noted that many Sikhs in the diaspora, particularly those who are politically active, are afraid to return to India because some have been arrested (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to

the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] Emigration clearance is required of ECR category passport holders, as per *The Emigration Act 1983*, for the following countries: United Arab Emirates (UAE), Saudi Arabia, Qatar, Oman, Kuwait, Bahrain, Malaysia, Libya, Jordan, Yemen, Sudan, Brunei, Afghanistan, Indonesia, Syria, Lebanon, Thailand, Iraq (India n.d.b).

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Additional Sources Consulted

Oral sources: Asian Human Rights Commission; Human Rights Law Network; India – Bureau of Immigration, High Commission in Ottawa, Ministry of External Affairs, Ministry of Home Affairs, National Human Rights Commission; Institute of Peace and Conflict Studies; People's Union for Civil Liberties; Professor, Indiana University; nine lawyers based in India.

Internet sites, including: Amnesty International; Asian Human Rights Commission; BBC; ecoi.net; FIDH; Freedom House; India – Bureau of Immigration, High Commission in Ottawa, Ministry of External Affairs, Ministry of Home Affairs, National Human Rights Commission; Institute of Peace and Conflict Studies; Internal Displacement Monitoring Centre; International Organization for Migration; People's Union for Civil Liberties; UN – Refworld.