

NEITHER COMPATRIOTS NOR REFUGEES: STATUS DISCRIMINATION OF EXILED TIBETANS AND THE CONTRADICTORY FACES OF THE REPUBLIC OF CHINA (TAIWAN)

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ABSTRACT

This article focuses on the double liminality that exiled Tibetans face in Taiwan today. In the context of the international political system, refugees or stateless people cannot be placed into any existing order of nation-states. Refugees are in a state of liminality. With its national title "Republic of China" (ROC), Taiwan has been placed in an ambiguous position with its status as neither a nation-state nor a non-nation-state ever since the ROC was expelled from the United Nations. The ROC is in a state of liminality among states in the international order. In addition, Taiwan claims its sovereignty over Tibet, despite losing this sovereignty in 1949 to the communists. Taiwan's ambiguity of identity pushes the government neither to treat Tibetan refugees in Taiwan as compatriots nor accept their status as refugees. Placed under double liminal status, exiled Tibetan refugees in Taiwan have been discriminated against and denied their entitled human rights. This paper provides two cases to reveal the very real difficulty of their situation in Taiwan. Both stories present the kind of dilemma the exiled Tibetans face in Taiwan due to this double liminality.

Keywords: Liminality, exiled Tibetans, refugee, stateless, Taiwan, Republic of China

INTRODUCTION

Refugees or displaced people have been treated as a "problem" because of their "abnormal" situation as involuntary international migrants. They are also subjected to arbitration and discriminatory treatment through government policy, even though they are entitled to fundamental human

rights under international law. This paper will focus on the difficulties that exiled Tibetans face in Taiwan due to their refugee status. Taiwan, also known as the Republic of China (ROC), remains in an ambiguous nation-state after it was expelled from the United Nations (UN). Although under the constitution of the ROC, "Tibet is still part of China," exiled Tibetans in Taiwan are neither treated as compatriots nor viewed as refugees; hence, they cannot be treated as according to international refugee law. Even when an exiled Tibetan marries a Taiwanese national, he or she is still denied the rights that most foreign spouses enjoy, such as access to healthcare and the ability to work legally or travel freely. In addition, the Tibetan spouse faces an even more stringent naturalisation process than other foreign spouses in Taiwan.

In the context of international politics, refugees or people without nationality cannot be placed into any existing order. They are in a state of liminality (Malkki 1994). The concept of liminality was first developed in the early 20th century by anthropologist Arnold van Gennep. Liminality (from the Latin word *līmen*, meaning "a threshold") is the quality of ambiguity or disorientation that occurs in the middle stage of rite of passage during a person's transition from one social status to another (van Gennep 1960). The characteristic of the liminal phase lies in its separation from daily life and owes to time and place of withdrawal from normal modes of social action (Turner 1969: 95). According to Turner's definition, liminality refers to any "betwixt and between" situation or object. Therefore, the concept can be applicable to single individuals and to social groups or even to a country (Thomassen 2009: 16). Malkki applies this definition to the status of refugees who are in-between categories and as such, are perceived as a dangerous form or a matter out of place, a challenge to the system of nation-states to which they do not belong. Tibet was invaded and subsequently occupied by the Chinese Communist Party in 1959, but the 14th Dalai Lama escaped from Tibet seeking political asylum in India. Thousands of Tibetans followed the Dalai Lama into exile and became refugees or stateless people.

Similar to exiled Tibetans, Taiwan has been viewed as in a state of liminality in various perspectives. Through the spatial dimension, Stéphane Corcuff defined the liminality of Taiwan by its geopolitical position to China. As a geopolitical object, Taiwan is far enough to be different from China, but also close enough to understand China better than any other region. Historically, Taiwan is related to China neither marginally nor peripherally but liminally (Corcuff 2011: 217–229). According to the theory of institutionalism, Wang argues the liminality of Taiwan by its status in the system of nation-states. Taiwan does not enjoy membership in the UN or

recognition as a nation-state in international society. Taiwan is not included in international data banks, which were mainly published by the organisations of the UN. Taiwan is neither a nation-state nor non-nation-state. Taiwan becomes a "troublemaker" by its ambiguous status in the system of nation-states (Wang 2001: 267–302).

Taiwan's ambiguity is not only in the position of the international system of nation-states, but also in its own identity. Taiwan's government still claims its sovereignty over mainland China, despite losing this sovereignty in 1949 to the communists. In this paper, the author will argue that the situation of exiled Tibetans in Taiwan is one of "double liminality." The stateless people are not recognised by the international system of nation-states, and Taiwan's ambiguous identity hinders the government in deciding to categorise exiled Tibetans as either citizens or foreigners. Under the constitution of the ROC, "Tibet is still part of China," but exiled Tibetans in Taiwan are treated as neither compatriots nor refugees. This paper provides two cases to reveal the difficulty of their situations in Taiwan. Both stories present the kind of dilemma that exiled Tibetans face in Taiwan due to this double liminality.

THE EXILE OF THE TIBETANS

Traditionally, Tibet consists of the regions U-Tsang, Amdo (Qinghai) and Kham. What is commonly referred to as Tibet is located between China and India, whose official boundary had never been delineated before the modern nation-state was established. From ancient times until today, China has been working to exert control over Tibet. When the ROC was founded in 1911, the Kuomintang (KMT) government had explicitly claimed its sovereignty over Tibet. In 1949, the KMT was defeated by the People's Liberation Army (PLA) and fled to Taiwan. Subsequently, the People's Republic of China (PRC) came to power in China and was even more determined to declare its sovereignty over Tibet. Even though the Tibet government asserted its actual independence from 1913 onward,¹ both the ROC and then the PRC regard Tibet as "an inseparable part of China." The PLA announced its mission to liberate Taiwan and Tibet. In March 1959, the "Lhasa Incident" occurred,² when the 14th Dalai Lama disguised as a soldier left his palace and, together with 13,000 of his followers, escaped from Lhasa to seek political asylum in India. After arriving in India, the Dalai Lama began his life as an exiled Tibetan refugee. To this day, however, India does not consider or refer to the Dalai Lama as a refugee but simply as an "honoured guest" (Tibet Justice Center 2011: 23).

After the Dalai Lama's flight into exile, thousands of Tibetans followed him into India to avoid persecution. The Indian government offered basic humanitarian aid to the massive influx of Tibetans, such as transit refugee camps, medical treatment and rations. The Tibetan refugees were also allowed to reside and work in India, mainly on road construction and other manual labour projects. In order to ensure the survival of Tibetan refugees and restore freedom in Tibet, the Dalai Lama re-established the Tibet Government-in-Exile (TGiE) with the Central Tibetan Administration (CTA) in McLeod Ganj, Dharamsala, the Indian state of Himachal Pradesh. With the task of rehabilitating exiled Tibetans in India, the Dalai Lama proposed to the Prime Minister Jawaharlal Nehru for a more permanent arrangement. With the help of Nehru, the first Tibetan settlement was established in Bylakuppe, Karnataka. Subsequently, a total of 52 settlements were founded, among which 35 were in India, ten in Nepal, and seven in Bhutan. Today these settlements contain nearly 110,000 Tibetan refugees.³

TIBETANS IN INDIA

According to Article 1 of the "Convention Relating to the Status of Refugees," under the responsibility of the UN High Commissioner for Refugees (UNHCR) of 1951, defined a refugee as "someone who owing to a 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 to, or owing to such fear, is unwilling to avail himself of the protection of that country."⁴ Even though there has been a large number of Tibetan refugees in India for over four decades, India has not ratified this 1951 Convention and its 1967 Protocol. Nor has India enacted separate law to deal with "refugees." Refugees are "foreigners." In India, the decision as whether to treat a person or a group of persons as refugees or not is taken on the merits and circumstances of the cases coming before it.

Tibetan refugees in India neither qualify as refugees in any legal sense nor enjoy the official status of refugees under international law. India has adhered to the customary international legal principle of *non-refoulement*, which prohibits the return of a refugee to any place where his or her life or freedom would be in jeopardy. The Tibetan refugees exiled from 1959 through the 1970s were protected by the Indian government. Even though Indian law states that foreigners cannot own property or assets in India, the government leases land and housing for Tibetans to establish

settlements. For Tibetans entering India as of the 1970s, as well as their offspring born in India, the Indian government grants Indian Residential Certificates (RC) so that they can be entitled to work and travel across the country. They also receive Identity Certificates (IC), which enables them to travel internationally to the few countries that will accept these documents in lieu of a passport, including the U.S., Switzerland and several other states in Europe (Tibet Justice Center 2011: 13). It is not stipulated in law that the Indian government is obligated to help Tibetan refugees but based on sentiments and humanitarian reasons.⁵

As the Tibetans arriving from 1959 to the 1970s recalled their wish to return to their motherland, the Indian government viewed Tibetan refugees as people asking for temporary protection and became even more obliged to provide shelter.⁶ Due to the fact that China has exerted stronger dominance over Tibet throughout the decades and hundreds of Tibetans every year scale the Himalayas to enter India, the Indian government has decided not to provide any form of help to Tibetans arriving after 1980, which means neither an RC nor an IC would be granted, nor land allocated anymore.⁷

As "foreigners" in India, Tibetans may not legally purchase real estate in India and cannot compete with jobs related to governmental services provided by the India government. Thus, the Tibetan community faces the serious problem of unemployment. According to the 2009 demographic survey of the CTA, nearly 20 percent of the total Tibetan population is unemployed or underemployed (Office of Planning Commission 2010: 53).

TIBETANS IN NEPAL

After 1959, roughly 20,000 to 30,000 Tibetans arrived in Nepal and became political refugees.⁸ Those who fled to India were in great numbers and could get immediate help from the Dalai Lama, and thus they were settled by the Indian government. As to those arriving in Nepal, however, they could barely receive resources or assistance of any sort owing to distance and poor communication services. They sold personal belongings, or went begging for survival, and lived in humble tents. It was not until April 1960 did they receive any help from the Red Cross and other non-profit organisations (Forbes 1989: 25). One year later, some foreign missionaries in Nepal organised voluntary groups to help these refugees escape destitution or fight illness.⁹ With the help of foreign humanitarian organisations, Tibetan refugees were relocated in Jawalakhel or Boudhanath (in Kathmandu), Pokhara (in the western Nepal) or Chalsia (in the regions of Solu-Khumbu).

Even now, many Tibetans still risk the danger of crossing over the Himalayas en route to Nepal to seek freedom. They can get help from the UNHCR on arriving safe and sound to apply for a certificate of departure from Nepal, along with an Indian Visa, passport and refugee certificate before setting off to Dharamsala in India for settlement. However, Tibetans that settle in Nepal have to endure the status of ambiguity. Like India, Nepal has no legal category for refugees. Nepal has not ratified treaties for the protection of refugees under any international law or has enacted domestic laws on refugees. Nepal considers anyone who is not a citizen to be a foreigner. In other words, like India, Nepal has never officially approved the refugee status of the Tibetans, even though these exiled Tibetans do receive help from international organisations. In reality, however, these Tibetans take advantage of their close links with the Sherpa people in race, religion and culture, as many Tibetans and the Sherpa tribe have mingled due to borderline trades. Thus Tibetans make use of the loopholes in governmental procedures or other questionable ways to gain Nepali citizenship. The Nepali government has for long come to know of such deeds and does not grant Tibetans ID cards like other common citizens (Frechette 2002: 125–130).

"FREE CHINA" AND TIBETANS IN TAIWAN

With the Dalai Lama and tens of thousands of Tibetans seeking asylum in India in 1959, the president of the ROC in Taiwan Chiang Kai-shek delivered a public statement, declaring the ROC's support of the Tibetans' stance of "anti-Communist and anti-violence":

"We, the government of the Republic of China, have always paid respect to Tibet's existing political and social system and ensured their religious belief and traditional way of life. Now I promise to all of you: when the Chinese Communist regime has been destroyed and Tibetans can express their will freely, our government will definitely help to make this vision come true on the grounds of national self-determination."¹⁰

However, the ROC government has neither provided the Dalai Lama any assistance nor adjusted its existing policies toward Tibet. Instead, it regards the exiled Tibetans in India as "overseas Chinese from Tibet" and categorises them into overseas Chinese in India. According to the *Overseas Chinese in India* published by the Overseas Community Affairs Council,

ROC, there were 34,800 Tibetans in the 1960s, being more than the number of 23,422 Han people in India (Overseas Chinese Gazette Compilation Committee 1962: 38–40).

Even if the ROC government did not have substantial sovereignty over Tibet, a government agency named as Mongolian and Tibetan Affairs Commission (MTAC) still operates in Taiwan, with a mission statement as follows:

"It is to defend the aim of ROC constitution, ensure the equal status of various ethnic groups, promote the regional autonomy of Mongolia and Tibet, enhance the economic and educational reforms in Mongolia and Tibet, foster Mongolian and Tibetan cultures, and respect their religious beliefs and social customs, in the hope of achieving harmonious ethnic relationships and protecting the ROC's sovereignty."¹¹

Taiwan has been placed in an ambiguous position with its status neither as a nation-state nor a non-nation-state ever since Taiwan was expelled from the UN. According to the constitution, the ROC still claims it is the legitimate government of China, though it is symbolic rather than substantial. Though the ROC and the TGiE are both against communism, the ROC does not recognise the legal sovereignty of Tibet and regards the TGiE as a "local government." The statement on Tibetan independence made by the Dalai Lama's exile government was considered to be against Chinese unity (Liu 1996: 100 129–130).

The routes of exiled Tibetans coming to Taiwan are mainly from Nepal and India. During the Cold War, the ROC government in Taiwan defined itself as "free China." Taiwan presented itself as "a fort of anti-communism and anti-tyranny." The Tibetans who came to Taiwan were either involved with the high-ups of the KMT or held opposing opinions to the Dalai Lama's. They were political or religious elites and only dozens in number. Most of them have settled in Taiwan and their offspring have adapted quite well to Taiwan's society by adopting language and living habits (Wu 1999: 23).

In the 1980s, Taiwan set up the "Tibetan Children's Home" to receive Tibetan children aged six to 14 from India and Nepal to Taiwan through the "Mainland China Relief Association." A total of 107 Tibetan children were brought to Taiwan as of 1992. Then the ROC government realised that it was an opportunity to show sovereignty over Tibet and also the best anti-communist propaganda by taking care of the children of exiled Tibetans.

The purpose of setting up the "Tibetan Children's Home" was to educate these Tibetan children to develop identification with the ROC so that they could exert their influence of Taiwan in Tibetan communities after they finish their studies. The ultimate goal was to prepare for the cadres and personnel in governing the Tibet region in hopes that the ROC will return to mainland China in the future. After many years of receiving education in Taiwan, these Tibetan children got accustomed to life in Taiwan and were unwilling to return to their exiled communities. Eventually, they stayed and constituted the population of the "Tibetans in Taiwan," shown in the statistics conducted by the MTAC.¹²

In addition to providing opportunity in education, the MTAC started to open up an occupational training program for the Tibetan youth in exile in 1983. This program provides three to six months of occupational training for Tibetans aged 16 to 35. The goal is to improve the economic situation of exiled Tibetans and create opportunities for entrepreneurship. The participants of training programs should return to their own settlements within one week when completing the training. From 1983 until 1991, there were 235 participants in total, with 103 persons from India and 132 from Nepal (Liu 1996: 186–191). According to Article 4 of "Items Governing the Occupational Training for Tibetan Youths Emigrated from India and Nepal," these young people should "receive visitor visas before arriving in Taiwan and apply for residence certificates in accordance with regulations" (Hsu 2001: 134–135). The government paid all the travel and living expenses for the participants. The MTAC's officials considered Tibetan refugees in South Asia as a valuable workforce during this time while Taiwan was in the fast track of growing economic development:

"Considering the severe labour shortage in Taiwan, many factory owners began to introduce foreign labourers. Since the government repeatedly stressed that Tibetans were our compatriots, we encouraged these Tibetan youths to take practical training in the program so that they could make money and our problem of labour shortage would be solved..." (Liu 1996: 192–194).

However, from 1990 to 1993, there were only 179 persons trained by the program, with 113 from India and 66 from Nepal. The training program had to come to a close as the government changed its regulations in the "Employment Services Act" in May 1993. According to this new Act, exiled Tibetans were excluded from the qualification of legal workers.

FROM EXILE-TIBETAN TO BEING STATELESS

It is clear that exiled Tibetans came to Taiwan mainly through the official channel under the administration of the MTAC. Although the ROC government claimed the exiled Tibetans were compatriots, it did not grant citizenship to them. It was the MTAC's plan to bring exiled Tibetans from South Asia to Taiwan for the training program and then working in the factory for a year. The participants of training programs were to return to their own settlements within one week after they completed the program. In the 1990s, there were some Tibetans who escaped from the factory due to arduous working conditions. These run-away Tibetans held no documents and faced the predicament of overstay. They could neither return to their settlement in India or Nepal nor work legally in Taiwan; at times they even had to hide from the police. They were not able to seek medical treatment because they could not afford it. It was not until 1999, with the help of the Taiwan Association for Human Rights, that some Tibetans who have overstayed came to the MTAC to deliver their petition and ask the MTAC to keep its promise that was long overdue:

"From 1989 to 1992, the MTAC officials came to South India, North India, and Nepal to recruit Tibetan refugees to work in Taiwan. They explicitly said that 'if you wish to come to Taiwan, we will arrange everything for you, including passports. In Taiwan, we will find a job for each of you and help you apply for ID cards with permanent residency.' So we left our parents and family, with only a passport (that was given by the MTAC) and an immigration certificate in hand, and a dream for a better life in Taiwan.

At that time, only a few of us were told to take the training program here. Most of us were informed that we would have a good job and live a better life. The MTAC even promised to grant us ROC ID cards. However, our passports and immigration certificates were taken away by the MTAC. We were sent to factories to work in poor conditions. From then on, we became cheap labourers and lived an ambiguous life in Taiwan.

Although we did not have nationality in India or Nepal, we were refugees and at least were admitted as legal foreigners. In Taiwan, however, we still do not have nationality and even

worse have become illegal. We cannot go back to our family in India or Nepal because we have no passports. Thus we are trapped and have to live the past decade in fear and with little protection. We can only do odd jobs; we cannot ask for medical help even when we need it; we are afraid of the police in the streets, as we cannot explain to people clearly our absurd situation. We cannot seriously develop a relationship because it is impossible to have a legal marriage under such circumstances."¹³

In 2000, there were 113 Tibetans who receive Taiwan's ID cards with the help of local human rights organisations and official legislators (Hsu 2001: 241–247). In December 2008, another group of Tibetans came forward to turn themselves into the police. This group was composed of runaway Tibetans who were not part of the petition group in 1999 due to poor dissemination of information and other reasons; a few of these overstayed Tibetans came to Taiwan with tourist visas and even fake IDs from Nepal. This group of Tibetans was not as fortunate as the group in 1999. There were some new regulations in applying for ROC citizenship, and this group of Tibetans was treated as foreigners in having to obtain the Alien Resident Certificate (ARC). In order to have ROC ID, they must provide evidence that substantiates the fact that he or she has stayed for 183 days in Taiwan per year for more than five consecutive years or more.

The Taiwan government regards Tibetans with Indian ICs as stateless, though exiled Tibetans do not agree with this. As Mr. Kunsang speaks out: "I have my country. Its name is Tibet. I am a Tibetan. I don't know why I became a person without nationality in Taiwan!"¹⁴ To those Tibetans who fled to India or Nepal, Tibet is their country, only it is occupied by the Chinese Communist Party. Yet they still have an exiled government in Dharamsala, India. With ICs issued by the Indian government, Tibetans are able to travel internationally. The ROC government does not view the exiled Tibetans as compatriots as stated in the constitution, nor admit them as refugees as required by international practice. Taiwan's Refugee Law is still on its way to formulation. It is unlikely this law will be passed in the near future.

Although this group of Tibetans having ARCs can apply for ROC ID cards just like other foreigners can do after five years, they are treated differently because of their "stateless" status. They are asked to turn themselves to the court and give up Indian or Nepalese ICs to get their residence certificates. Without Indian or Nepalese ICs, they cannot go back to their settlements in South Asia, and the waiting period is at least five

years. Ironically, this group of Tibetans enter into another "liminal" status after they are granted residence certificates in Taiwan. There are more than 100 Tibetans now still in the waiting period, separated from their family in South Asia. The following is how I had learned of the story of Pema (alias):

I saw Pema for the first time in the seminar of "Stateless People in Taiwan" in 2012. She got her ARC in 2009. She asked questions about returning to South India to visit her mother who was very sick. Officials at the National Immigration Agency comforted her that "there should be no problem, as long as her Indian IC is still valid and she has stayed in Taiwan 183 days per year." Apparently, this official who attended the seminar was not aware of Tibetan's special status and regarded Pema as a foreigner. Of course, Pema could not go back to India since she had turned herself in to the court. Her Indian IC had been rescinded by the court already. The only way for her to go back India legally was to have a Taiwan passport to apply for an Indian visa. To do so, she needed to have the ROC ID which she did not have now.

Pema's mother was very ill and missed her very much. Pema tried various ways to solve her problem. She even went to the National Immigration Agency to ask if there were any documents for her (just like the function of the Indian IC) to go abroad before she had gained a Taiwan passport. Officials at the National Immigration Agency told her: "It is up to the Indian government to decide whether to accept immigration or not, and we have neither stance nor right to demand. Not to mention we do not have formal diplomatic relations with India." It was clear that Pema could not go home to see her mother due to her liminal status in Taiwan, and also Taiwan's ambiguous national status but not recognised by many countries.

Even though Pema was soon to meet the minimal requirement of staying in Taiwan for at least five years, she still was not sure whether she could apply for the ID. According to the regulation of Taiwan's Nationality Act, one who applies for nationalisation must provide documentation certifying that the applicant possesses sufficient property or professional skills that enable him/her to be self-reliant:

- (1) earn an average monthly income within the ROC over the past year that amounts to more than double the basic wage as promulgated by the Council of Labor Affairs, Executive Yuan;
- (2) own property, movable or immovable, worth more than NT\$5 million; possess a specific professional/technical skill certificate or document of technical assessment issued by a competent authority of the government;
- (3) serve as a skilled employee in demand by high-tech industries in the ROC.

These standards are too high to meet for Pema who can only find a job in the factory as a labour force. It is easy to meet the basic wage as promulgated by the Council of Labor Affairs, being about US\$635 per month in 2013, but not possible to double it, let alone own gaining property worth over US\$160,000. Therefore, Pema and other Tibetans obtaining ARCs are likely to stay as status quo in Taiwan for even longer if they do not own sufficient property to proceed to naturalisation.

TIBETAN SPOUSES WITHOUT RESIDENCY STATUS

To this day, the MTAC still operates to serve "Tibetan compatriots," but the Taiwan government has started to adopt stringent measures on Tibetans with Indian ICs in case more Tibetans take advantage of this approach to gain Taiwan ID cards. For those exiled Tibetans coming to Taiwan with tourist visas, "no residence" is added to their document. As a matter of fact, exiled Tibetans with Indian ICs are viewed as "certain people that carry a higher risk of overstaying."¹⁵ In the name of border control, Taiwan's government does not even grant Tibetan spouses in Taiwan a permanent right of residency. The following is the story of Yung-ching and Tsering Chundup:

"In 2009, documentary worker Tsai Yung-ching married Tsering Chundup, a Tibetan living in India. They have a son. For the past two years, Chundup has applied for a Taiwan visa through his marital status, yet all he receives is 'visitor visa' on which 'No residence' is marked. This has prevented Chundup from applying for an ARC as a foreign spouse. Over the years, he has had to leave Taiwan before applying to immigration again every six

months.

Without permanent residence, Chundup cannot find work or enjoy the benefits of health insurance. Yet without a job, he cannot support his family, and the financial burden falls on Yung-ching's shoulders. When the husband leaves Taiwan, the wife has to take care of the child and can hardly go outside for a full-time job. Meanwhile, it takes Chundup one to two months to migrate from Taiwan to India, during which time the child misses his dad badly and a huge cost is accrued, including travel expenses, transportation, lodging, document application, verification, taking a blood test for HIV, visa application and so forth. It might cost nearly US\$2,000 for a visa run.

Taiwan's Ministry of Foreign Affairs described this six-month period as leeway. In reality, Yung-ching has to gather this sum for her husband to return to India to renew his visa. If the sum cannot be collected in time, Chundup will have overstayed, which complicates his situation even further. A marriage that is united by love is gradually eroded through the mark of 'no residence'...¹⁶

Taiwan is a country where multinational couples enjoy protection of their rights. Yet the Tibetan spouse is exempt from this protection. According to Item 4, Article 6 of the expended "Regulations Governing Visiting, Residency, and Permanent Residency of Aliens" on 1 August 2008, by the Ministry of the Interior Affairs, "People without nationality who arrive with visitor visa cannot apply for residence." In Chapter 13, Vol. 2 of the Manual of the Bureau of Consular Affairs, it reads, "In principle, those who apply for residence visa with Indian IC shall not be accepted." If the Tibetan's Indian IC is not renewed on time, it becomes an invalid document. Thus, the reason behind such strict regulations is to prevent from the problem of "invisible people" (without legal identity).

Taiwan's Ministry of Foreign Affairs sticks to the rules that require Tibetan spouses to leave the country every six months to return to India to apply for a dependent visa at the Taipei Economic and Cultural Office in India. Being denied residency status in Taiwan means that Tibetan spouses are forced to leave their families every six months and are denied the right to find work to support their families as well as the right to be covered by the National Health Insurance System.

Tibetan spouses try to petition and protest to the Taiwan government for their families to be kept together. On July 2012, the government set up

guidelines for the review of applications filed by Tibetan spouses who hold Indian ICs in order to allow them to apply for residency under certain conditions. The conditions that holders of Indian ICs must meet to qualify for this type of visa are: being in a registered marriage of at least three years and having been in the country for more than 183 days in each of the three most recent years. Those who have biological children in Taiwan only need to meet a two-year condition.¹⁷

Yet the problem remains unsolved. According to the regulations of the Ministry of Foreign Affairs, a Tibetan spouse still needs to return to India to re-apply for a dependent visa. This regulation does not apply to other foreign spouses in Taiwan, who can be granted permanent residency on return to their countries. Therefore, the Tibetan spouse is discriminated against by the Taiwan government. In addition, the condition for a Tibetan spouse to apply for a resident visa is nothing more than lip service, as no families can meet such requirements. A Tibetan spouse has a visa of up to 180 days, after which he has to leave Taiwan. Meeting the requirement of 183 days means that they have to leave and re-enter Taiwan twice a year, which demands more than US\$5,000 to cover the flights and other fees. Considering that a Tibetan spouse can hardly find work in Taiwan, it is nearly impossible for them to meet such expenses.

The Taiwanese-Tibetan families feel even more upset about the regulation regarding biological children. One Taiwanese wife complained to the author, "We dare not have children because the government poses so many restrictions on our marriage. The regulations regarding children seem to be very ironic to me, as there is another Taiwanese wife who is years older than me and who dared not to think about having children before. Now she has already passed the childbearing age and cannot have children anymore. This irreversible demand to the family has already occurred through such ridiculous laws."¹⁸

Sparked by human rights concerns, Taiwan's Control Yuan members have published an investigative report addressing the nation's visa policies for Tibetan spouses.¹⁹ They find the policy of denying Tibetan spouses of Taiwanese citizens the right to apply for resident visas discriminatory and illegal.²⁰ Married couples and activists have long appealed to various government departments and lawmakers to revise the policy that denies Tibetan spouses residency status, but the problem has yet to be truly resolved and very limited progress has been made.

CONCLUSION

The exiled Tibetans are political refugees as well as compatriots (in name) in Taiwan. Benefiting from the government's policies, they had arrived in Taiwan to receive education and acquire occupational training. Before the 1980s, they were used as a model of propaganda in anti-communism. As Taiwan's economy developed, the Tibetans were regarded as a cheap labour force. When they came to Taiwan for education or vocational training, the MTAC did not deal with problems concerning their legal status; naturally, Tibetans became illegal immigrants. Exiled Tibetans in Taiwan neither receive humanitarian treatment as refugees nor equal treatment as compatriots. Rather, they have had to petition to strive for residency rights. Even so, they were in many ways discriminated against due to their refugee status.

In fact, with Indian ICs, exiled Tibetans may immigrate and travel internationally. They can also apply for political asylum in accordance with international refugee laws in Europe and the U.S. and then become citizens of those countries (Hess 2009). Although under the constitution of the ROC government, "Tibet is still part of China," Tibetans in Taiwan are not treated as compatriots. However, they are not viewed as exiles or refugees, either, and hence cannot be treated as according to international refugee law.

Ironically, Taiwan has remained in an ambiguous state after it was expelled from the UN, which in a sense resembles that of refugees to the system of nation-states to which they do not belong. This paper identifies the liminality of statehood and how this relates to the ROC government in Taiwan still claiming its sovereignty over Mainland China, including Tibet. The existence of the MTAC serves only as a symbolic sovereignty over the Mongolian and Tibetan areas. However, Taiwan, like exiled Tibetans, actually exists in reality and cannot be ignored, even if it cannot be categorised into current international order. Exiled Tibetans in Taiwan have been discriminated against due to their double liminality, being denied the rights to proper life and work. This paper provides two cases to reveal the difficulty of their situations in Taiwan. Both stories present what kind of dilemma the exiled Tibetans are facing in Taiwan due to their status as refugees and the ambiguous position of Taiwan in global political arena.

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- ¹ For the Tibetans, Tibet's legal status in the international community should be regulated by the Shimla Accord (of 1914). During the years 1949–1950, Tibetans took full charge of its domestic affairs and enjoyed diplomatic independence to some extent. It gained international acceptance and visibility within these two years. For example, when the commercial delegation consisting of the Tibetan cabinet visited Britain and the U.S., they received their visas stamped in Tibetan passports, which was the equivalent of approval of Tibet as an independent country (Shakya 1999: 41).
- ² On 10 March 1959, tens of thousands of Tibetans gathered around Norbulingka, the Dalai Lama's palace, to stop him from going to the Chinese PLA military camp to watch a performance. Afterwards, these protestors went on marching in the streets, demanding the PLA get out of Tibet and uphold Tibetan independence. It is thus referred to as the "1959 Lhasa Incident" (Li 2010).
- ³ According to the demographic survey of the Central Tibet Administration in 2009, the population of Tibetans outside Tibet stood at 127,935. There were 94,203 Tibetans living in India, 13,514 in Nepal, 1,298 in Bhutan and 18,920 elsewhere (Office of Planning Commission 2010: 13).
- ⁴ Accessed from <http://www.unhcr.org/pages/49c3646c125.html> on 5 June 2012.
- ⁵ An address delivered by then-Prime Minister Nehru in Rajya Sabha (dated 4 May 1959): "... We should allow these refugees to earn their own living and give them freedom to do many things. Broadly speaking, of course we intend that we are not going to keep them as prisoners in camps... to some extent we are responsible when these people are coming in. We cannot let them loose on India... We have exercised our undoubted right to give asylum. I have said that Dalai Lama is perfectly a free agent to go where he likes in India or go back to Tibet" (Kharat 2003: 52).
- ⁶ Tibetans who enter India pass through the Himalayas in Nepal as the middle point. After reaching Nepal, the UNHCR takes charge of arrangement and sends them to the refugee centre set up by the exile government in India.

7. About 25,000 Tibetans that entered India from 1986 through 1996 did not receive any help.
8. Presently the number of Tibetans in Nepal is estimated to be 13,514 (Office of Planning Commission 2010: 13).
9. With the help of a priest, Father Marshall Moran, who lived in Nepal and engaged in relief work in 1961, the Nepal International Tibetan Refugee Relief Committee (NITRRC), which is also named "Father Moran's Committee," was founded (Forbes 1989: 25–27).
10. This public notice was delivered on 26 March 1959, see page 222–223, vol. 33 of *The Collection of President Chiang Kai-shek's Thoughts and Speeches* for full text (Electronic version can be found at <http://www.chungcheng.org.tw/thought/default.htm>).
11. This information is from the official webpage of the MTAC at <http://www.mtac.gov.tw/pages.php?lang=1&page=1> (accessed 4 August 2011). According to the Amendment to the Law governing Executive Yuan's Organization, the MATC was expected to dissolve in 2012. The mission of the MATC was turned over to the Mainland Affairs Council, to which the Mongolian Affairs Department and the Tibetan Affairs Department are subordinated.
12. According to data by the MTAC, currently a total of 485 Tibetans (120 households) live in Taiwan (among them, 435 persons have ID cards while 50 persons hold residence certificates) (<http://www.mtac.gov.tw/pages/86/5.pdf>; accessed 22 April 2011).
13. Find the official website for the Taiwan Association for Human Rights at <http://www.tahr.org.tw/site/case/passport.htm#a> (accessed 25 May 2011).
14. Mr. Kunsang's public talk on the "Stateless People in Taiwan" seminar (3 June 2012).
15. Official documentation delivered by the Ministry of Foreign Affairs (No. 1006800616 on 29 July 2011) lists these countries as Afghanistan, Algeria, Bangladesh, Bhutan, Myanmar, Cambodia, Cuba, Ghana, Iran, Iraq, Nepal, Nigeria, Lao, Pakistan, Senegal, Somalia, Sari Lanka and Syria. Tibetans with Indian ICs is the only refugee among the list.
16. "Taiwanese-Tibetan Families' Human Rights Association Striving for Legalization of Couples without Nationality in Taiwan," <http://www.wretch.cc/blog/forresidence> (accessed 20 March 2011).
17. The Executive Yuan, the highest administrative organ in Taiwan, has stipulated the "Joint Review Guidelines of the Application of Residence by Tibetan Spouse with Indian IC Married with Taiwanese" to deal with the problem.
18. Interviews with Taiwanese-Tibetan spouse on 20 October 2012.
19. The Control Yuan is the highest watchdog body of the ROC (Taiwan), exercising the powers of impeachment, censure and audit. One of its major functions is to receive the people's written complaints and prescribe procedures in this respect.
20. The full text can be found at: http://www.cy.gov.tw/sp.asp?xdUrl=./di/edoc/eDocForm_Read.asp&ctNode=910&AP_Code=eDoc&Func_Code=t01&case_id=101000370 (accessed 20 May 2013).

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