



Australian Government
Refugee Review Tribunal

Country Advice

India

India – IND38050 – Punjab – Mixed marriages – Sikhs – Hindus – Airport security – Exit procedures

4 February 2011

1. Deleted.
2. **Please provide information on the situation for people in the Punjab who seek to enter into mixed Sikh-Hindu marriages.**

While it is reported that Sikh-Hindu interfaith marriages are not uncommon in Punjab, interfaith marriage is generally not perceived positively in the wider Indian community.

Community views on interfaith marriage

A report from Immigration and Refugee Board of Canada (IRBC), dated 2006, cites correspondence between a professor of Asian Studies who specialises in Indian affairs and the IRBC, stating that '[t]he general societal attitude toward inter-religious marriage in India is 'not favourable''. The IRBC report further states that 'marriages between Sikhs and Hindus are "not uncommon" in the state of Punjab, where the majority of Sikhs reside,' especially since 'Hindus have always numbered prominently there'. The treatment of married couples from different religious faiths depends on their location and social level, and it can cause them to be socially ostracised and discriminated against.¹

On 16 January 2004 Dr. Martin Senftleben, an expert on Christianity in Andhra Pradesh, provided advice to the Tribunal on Hindu-Christian marriages in India. While not directly relevant to Hindu-Sikh marriages in Punjab, the advice nonetheless provides useful information on Hindus and their ability to influence authorities in matters such as interfaith marriage:

What legal protections are available to Hindus married to Christians in Hyderabad?

The government does not, at least not on paper, discriminate on the basis of religion. It would provide protection, if requested, by legal persecution against those who maltreat a family member because of marrying into a family of another religion. However, the legal system in India is quite corrupt and it is possible that the Hindu family has the financial means to influence the governmental forces in their favour. In that case, they will most likely use these means. Sometimes, if the family has a high reputation, it is not even necessary to provide any money, the

¹ Immigration and Refugee Board of Canada 2006, '*India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 - 2005)*', 9 January, <http://www.unhcr.org/refworld/country,,IRBC,,IND,,45f147e319,0.html> - Accessed 12 July 2010 – Attachment 1.

connections on the base of friendship to members of the government can be sufficient to influence the process. In this case, the attempts of the Hindu who marries a SDA to seek protection from the government will be futile.²

Legal and religious policy regarding interfaith marriage

India's marriage laws are contained in separate Acts that pertain to different religions; there is the *Hindu Marriage Act 1955*, *Indian Christian Marriage Act 1872* or *Anand Marriage Act 1909*, for example, depending on the religion of the parties involved.³ The *Anand Marriage Act 1909* pertains to Sikh marriage ceremonies. The Acts govern marriages between individuals of the same faith. According to the 2010 UK Home Office *Country of Origin Information Report*, however, interfaith and inter-caste marriages are governed by the *Special Marriage Act 1954*.⁴

Information indicates that interfaith marriages may be subject to restrictions that marriages within one religion are not. The 2010 United States Department of State (USDOS) report notes that Indian law 'limits inheritance, alimony payments, and property ownership of persons from interfaith marriages'.⁵

The Rehat Maryada is the Sikh code of conduct that outlines the rules of the faith. It is not codified in Indian law, but is followed as religious tradition. According to Article XVIII(b) of this code, '[a] Sikh's daughter must be married to a Sikh.' There is no mention of a male Sikh having the obligation to marry a fellow Sikh.⁶ A Sikh who marries a non-Sikh, however, cannot be married by the traditional Sikh 'Anand Karaj' ceremony, and must do so under the civil law *Special Marriage Act 1954*.⁷

A 2003 *Counter Currents* article provides some answers to Frequently Asked Questions about the Hindu marriage law. In regard to the question of which law a Hindu wishing to marry a non-Hindu may do so under, the article states:

If the couple wishes to have a religious marriage governed by Hindu law, then the non-Hindu partner must convert to Hinduism. [...] The [other] option, in some ways the simplest, is to have a civil marriage under the Special Marriage Act which facilitates marriages between any two people, including members of any two religious communities. It does not involve conversion and also permits people to avoid various complications that arise from marriages under various religion-based personal laws.⁸

² Senfleben, Martin 2004, Email 'Re: assistance', 16 January – Attachment 2

³ 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', 2008, Law Commission of India, October, <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 2 December 2010 – Attachment 3.

⁴ UK Home Office 2010, *Country of Origin Information Report – India*, 21 September – Attachment 4.

⁵ US Department of State 2010, *Country Reports on Human Rights Practices 2009 – India*, 3 March – Attachment 5.

⁶ 'Sikh Rehat Maryada', undated, Guru Nanak Darbar website, <http://www.gurunanakdarbar.net/sikhrehatmaryada.pdf> – Accessed 3 December 2010 – Attachment 6.

⁷ Singh, G. 2003, 'Sikh weddings', *BBC*, updated 3 June <http://www.bbc.co.uk/religion/religions/sikhism/ritesrituals/weddings.shtml> – Accessed 9 June 2009 – Attachment 7.

⁸ Manushi 2003, 'Women And Hindu Marriage Law: Some frequently asked questions', *Counter Currents*, 3 November <http://www.countercurrents.org/gender-marriage031103.htm> – Accessed 9 June 2009 – Attachment 8.

3. Please provide information on procedures for checking passengers departing India by air.

Descriptions of the immigration exit procedures for Indian airports have been located in reports from Department of Foreign Affairs and Trade (DFAT) and the IRBC. The DFAT report was published in 2008 and confirmed to be current in 2009 and relevant to all airports.⁹ The information contained in the DFAT report is corroborated by Indian airport websites.¹⁰ The relevant paragraphs from the DFAT report are listed below:

B. Please update the information on departure controls on persons leaving India through international airports.

3. Immigration checks are carried out on all passengers leaving through international airports in India (both Indians and foreigners). Passports are scrutinised and stamped, and all passengers must complete a disembarkation card. The following information is required to be provided by the passengers in these cards:

- Name and Sex
- Date of Birth, Place of Birth, Nationality
- Passport details including number, place and dates of issue/expiry
- Address in India
- Flight number and date of departure
- Occupation
- Purpose of visit to/from India

4. Once the immigration checks are complete, the travellers move to security checks, where the traveller's passport, boarding ticket, carry-on baggage and visa are checked again. Once the travellers are screened by security, he/she moves to the waiting lounge area. Once the airline announces the departure of its flight, the traveller's boarding ticket, visa and security stamps on hand baggage are checked again, before travellers board the craft.¹¹

A 2009 report by the IRBC also describes the airport screening procedure for passengers departing Indian airports. The report states:

... when the passenger approaches the check-in counter, his/her travel documents, such as passport, visa, ticket, etc. are checked by an airline check-in agent to verify the genuineness of the [documents] prior to the issuance of a boarding card.

After obtaining the boarding card, the passenger goes through immigration checks where his/her passport/visa is thoroughly screened and their biographical data are

⁹ Department of Foreign Affairs & Trade 2009, *DFAT Report 965 – India: RRT Information Request IND34411*, 23 February – Attachment 9.

¹⁰ 'Immigration Process', (undated), *Indian Airports* website, <http://indianairports.com/php/showNews.php?newsid=57&linkid=47> – Accessed 31 January 2011 – Attachment 10; Bureau of Immigrations, Government of India (undated), 'Instructions for Indians', Chennai International Airport website <http://www.airportsindia.org.in/chennai/indianinfo.jsp> – Accessed 30 March 2009 – Attachment 11.

¹¹ Department of Foreign Affairs and Trade 2008, *DFAT REPORT 928 – India: Update on Passports, Airport Checks and Exit Procedures: RRT Information Request IND33968*, 26 November – Attachment 12.

stored into the computer by the government immigration officials. And, at this stage the passenger's data is matched with the suspected criminal databank.¹²

4. Are there procedures for detecting people wanted by the Indian authorities on arrival at, or departure from, Indian airports?

Procedures used at Indian airports to detect people wanted by the authorities include Lookout Circulars (LOC) and the Advance Passenger Information System (APIS). LOCs are issued by police to international airports to restrict the movement of persons of interest. The APIS system facilitates the sharing of passenger information between airlines and India's immigration authorities for all incoming flights. Further to these procedures, it is also possible for Indian authorities to revoke a person's passport if they have a pending court case or if there is a warrant for their arrest. It may be possible, however, that a person who is wanted by authorities could circumvent airport security procedures by paying a bribe to immigration officials.

A report from DFAT, dated 2008 and confirmed in 2009 to be current, outlines the procedure for issuing LOCs:

C. Please advise on the ease/difficulty for someone with criminal cases pending before the Courts to be able to leave India.

...6. India has a process for issuing lookout circulars (LOC) to international airports to restrict the movement of those subject to arrest warrants. The LOC is supposed to go to all the airports that handle international flights. However, DFAT notes that our contacts expressed some doubt on this point, and indicated that the LOC may only be sent to the most likely departure point, and there had been problems of coordination in the past. For instance, there was a recent case of an American citizen who left India through New Delhi airport despite having had a LOC issued against him in Mumbai on suspicion of involvement in terrorist activities (he was later exonerated). There are 23 international airports in India.

7. The process for issuing an LOC involves a senior police official writing to the Additional Director of Police (Intelligence) to provide details about the case. The Additional Director then provides these details to the immigration department and (in theory) to all chief immigration officers of international airports. In Delhi, Mumbai, Chennai and Kolkata the Chief Immigration Officer is a representative of the Central Bureau of Intelligence. For the other airports, a senior police official or commissioner of police is appointed to the role. There are delays in circulating LOCs, compounded when paperwork must be forwarded to several locations. LOCs can be issued in cases of i) persons to be arrested, ii) persons not allowed to enter India, iii) persons not allowed to depart India, iv) persons whose movements are to be watched and reported.¹³

Another method of detecting persons of interest at airports is the APIS system. Introduced to six airports in November 2010, this system requires pilots of planes destined for India to send passenger and crew information to the immigration authorities within 15 minutes

¹² Immigration and Refugee Board of Canada, 2009, 'India: Airport security screening for passengers departing on international flights – IND103120.E', 14 April, <http://www.unhcr.org/refworld/docid/4a7040a9c.html> – Accessed 31 January 2011 – Attachment 13.

¹³ Department of Foreign Affairs and Trade 2008, *DFAT REPORT 928 – India: Update on Passports, Airport Checks and Exit Procedures: RRT Information Request IND33968*, 26 November – Attachment 12; Department of Foreign Affairs & Trade 2009, *DFAT Report 965 – India: RRT Information Request IND34411*, 23 February – Attachment 9.

of departure to India.¹⁴ The pilots must send the ‘name, date of birth, nationality, sex, passport number, country issuing passport, country of permanent residence and visa number, date and place of issue’ for each passenger and crew member on board the aircraft.¹⁵ This information is checked against lists that the immigration department maintain and is also sent to other Indian government border control agencies.¹⁶ The APIS system is intended to facilitate swift detection of persons of interest, as well as cases of fake identities.¹⁷ While only six airports currently use this system (Delhi, Mumbai, Chennai, Hyderabad, Bangalore and Cochin), the government intends for all Indian international airports to be using the centralised system by 2012.¹⁸

Under India’s *Passports Act 1967*, authorities have the power to impound or revoke passports under certain circumstances. Section 10, Paragraphs (3)(e) and (3)(h) state respectively that a passport may be impounded or revoked: ‘if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India’; or ‘if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force’.¹⁹

The use of bribery to circumvent security checks

It is possible that a person who is wanted by authorities may be able to circumvent airport security procedures or punishments through bribery. In 2000, the Danish Immigration Service fact-finding mission reported that it is possible for a person wanted by the police to pass through immigration by way of paying a bribe. The report notes that ‘[t]he foreign diplomatic missions explained that wanted people may also leave India, with false or genuine passports, perhaps on payment of a bribe’.²⁰ Despite the immigration authorities having lists of ‘wanted people’, it was possible for people on those lists to leave India if they paid a bribe.²¹ A survey cited by the 2010 United States Department of State *Country*

¹⁴ ‘Advance Passenger Information System’, 2010, *The India Post*, 30 November, <http://www.theindiapost.com/delhi/advance-passenger-information-system/> – Accessed 31 January 2011 – Attachment 14.

¹⁵ Immigration and Refugee Board of Canada, 2006, *India: Treatment by Indian authorities of Indian citizens who are deported to India from other countries, return to India without a valid passport and who are suspected of having requested refugee status while abroad (2000 – 2005)*, 9 January, http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=449789&l=e – Accessed 31 January 2011 – Attachment 15.

¹⁶ Immigration and Refugee Board of Canada, 2006, *India: Treatment by Indian authorities of Indian citizens who are deported to India from other countries, return to India without a valid passport and who are suspected of having requested refugee status while abroad (2000 – 2005)*, 9 January, http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=449789&l=e – Accessed 31 January 2011 – Attachment 15.

¹⁷ ‘Passenger info system at Bangalore airport’, 2010, *Deccan Herald*, 11 December, <http://www.deccanherald.com/content/120022/passenger-info-system-bangalore-airport.html> – Accessed 31 January 2011 – Attachment 16.

¹⁸ ‘Passenger info system at Bangalore airport’, 2010, *Deccan Herald*, 11 December, <http://www.deccanherald.com/content/120022/passenger-info-system-bangalore-airport.html> – Accessed 31 January 2011 – Attachment 16.

¹⁹ *The Passports Act, 1967* (India) Ministry of External Affairs, 24 June, http://www.liiofindia.org/in/legis/cen/num_act/pa1967an15o1967222/ – Accessed 1 February 2011 – Attachment 17.

²⁰ Danish Immigration Service & Danish Refugee Council 2000, ‘Passport issue and conditions for leaving/entering the country’ in *Report on fact-finding mission to Punjab (India): The position of Sikhs 21 March to April 2000*, March/April, p. 43 – Attachment 19.

²¹ Danish Immigration Service & Danish Refugee Council 2000, ‘Passport issue and conditions for leaving/entering the country’ in *Report on fact-finding mission to Punjab (India): The position of Sikhs 21 March to April 2000*, March/April, p. 43 – Attachment 19.

Report on Human Rights Practices shows that 91 per cent of bribe demands in India come from government officials.²²

Attachments

1. Immigration and Refugee Board of Canada 2006, '*India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 - 2005)*', 9 January, <http://www.unhcr.org/refworld/country,,IRBC,,IND,,45f147e319,0.html> - Accessed 12 July 2010.
2. Senftleben, Martin 2004, Email 'Re: assistance', 16 January.
3. 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', 2008, *Law Commission of India*, October, <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 2 December 2010.
4. UK Home Office 2010, *Country of Origin Information Report – India*, 21 September.
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7. Singh, G. 2003, 'Sikh weddings', *BBC*, updated 3 June, <http://www.bbc.co.uk/religion/religions/sikhism/ritesrituals/weddings.shtml> – Accessed 31 January 2011.
8. Manushi 2003, 'Women And Hindu Marriage Law: Some frequently asked questions', *Counter Currents*, 3 November, <http://www.countercurrents.org/gender-marriage031103.htm> – Accessed 31 January 2011.
9. Department of Foreign Affairs & Trade 2009, *DFAT Report 965 – India: RRT Information Request IND34411*, 23 February.
10. 'Immigration Process', (undated), *Indian Airports* website, <http://indianairports.com/php/showNews.php?newsid=57&linkid=47> – Accessed 31 January 2011.
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12. Department of Foreign Affairs and Trade 2008, *DFAT REPORT 928 – India: Update on Passports, Airport Checks and Exit Procedures: RRT Information Request IND33968*, 26 November.

²² US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – India*, 11 March, Section 4 – Attachment 18.

13. Immigration and Refugee Board of Canada, 2009, '*India: Airport security screening for passengers departing on international flights – IND103120.E*', 14 April, <http://www.unhcr.org/refworld/docid/4a7040a9c.html> – Accessed 31 January 2011.
14. 'Advance Passenger Information System', 2010, *The India Post*, 30 November, <http://www.theindiapost.com/delhi/advance-passenger-information-system/> – Accessed 31 January 2011.
15. Immigration and Refugee Board of Canada, 2006, *India: Treatment by Indian authorities of Indian citizens who are deported to India from other countries, return to India without a valid passport and who are suspected of having requested refugee status while abroad (2000 – 2005)*, 9 January, http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=449789&l=e – Accessed 31 January 2011.
16. 'Passenger info system at Bangalore airport', 2010, *Deccan Herald*, 11 December, <http://www.deccanherald.com/content/120022/passenger-info-system-bangalore-airport.html> – Accessed 31 January 2011.
17. *The Passports Act, 1967* (India), Ministry of External Affairs, 24 June, http://www.liiofindia.org/in/legis/cen/num_act/pa1967an15o1967222/ – Accessed 1 February 2011.
18. US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – India*, 11 March, Section 4.
19. Danish Immigration Service & Danish Refugee Council 2000, 'Passport issue and conditions for leaving/entering the country' in *Report on fact-finding mission to Punjab (India): The position of Sikhs 21 March to April 2000*, March/April, p. 43.