

Immigration Court: BIA

Case: *Matter of L-T-A-*, 29 I&N Dec. 362 (BIA 2025)

Date: December 18, 2025

Adjudicated by: Mullane, Creppy, Goodwin

Opinion: Goodwin

Tags: Asylum, firm resettlement bar

Question Presented: Did respondent firmly resettle in India?

Holdings:

- “Evidence that a respondent had a legal right to enter, live, work, and own property indefinitely in the country of proposed resettlement demonstrates that the respondent was offered ‘some other type of permanent resettlement’ for purposes of the firm resettlement bar.” 362

Rationale:

Facts: (362-63) Nepal. As a student in 2009, respondent received threats from Maoists because she refused to support them. In 2011 they attacked her when she organized a meeting in support of the Nepali Congress Party, resulting in serious injuries. She fled to India and lived there for five years without incident. She was indirectly threatened by Maoists while there and decided to leave.

Procedural History:

- **January 15, 2020:** IJ denied application for asylum, granted withholding – firm resettlement bar finding.
- ____: Respondent appealed denial of asylum & filed additional evidence.

Appeals to Statute & Precedent:

- **INA § 208(b)(2)(A)(vi), 8 U.S.C. § 1158(b)(2)(A)(vi):** Firm resettlement bar for asylum: applicant is ineligible for asylum if he or she “was firmly resettled in another country prior to arriving in the United States.” (q.363)
- **8 C.F.R. § 1208.15 (2020):** Firm resettlement: citizenship, permanent residence, or “some other type of permanent resettlement.”
 - Exceptions:
 - (a) entry into that country was necessary consequence of flight from persecution, remained in that country only long enough to arrange onward travel, did not establish significant ties in that country
OR
 - (b) conditions of residence were “substantially and consciously restricted by the authority of the country of refuge” that resettlement was not achieved. (e.g., housing, employment, permission to hold property and travel documentation were not comparable to citizens’ privileges)

- ***Matter of A-G-G-*, 25 I&N Dec. 486, 501-03 (BIA 2011):** Four-step framework for deciding cases involving firm resettlement:
 1. DHS “bears the burden of presenting prima facie evidence of an offer of firm resettlement.” 501 (direct / indirect evidence of an offer)
 2. Respondent can rebut DHS’ evidence “by showing by a preponderance of the evidence that such an offer has not, in fact, been made or that . . . she would not qualify for it.” 503
 3. IJ should consider totality of evidence presented so far to decide whether firm resettlement has occurred. 503
 4. If IJ says firm resettlement has occurred, respondent may establish an exception. 503
- ***Sall v. Gonzales*, 437 F.3d 229, 235 (2d Cir. 2006):** “instructing the IJ to consider both whether the alien received an actual offer of permanent resident status in Senegal and other factors including his family ties, business and property connections, and whether he enjoyed the same legal rights to work and enter and leave the country as those who are permanently settled.” (LTA 364)
 - Adopts a “totality of the circumstances approach” 233
- ***Tchitchui v. Holder*, 657 F.3d 132, 135 (2d Cir. 2011):** burden on DHS to establish prima facie case of firm resettlement & then burden shifts to noncitizen to show she qualifies for an exception.

Relevant U.S. History:

Discussion:

- “An offer of firm resettlement may take different forms. While in some cases an offer of firm resettlement consists of a pathway to becoming a permanent resident or citizen of a third country, the regulation governing firm resettlement also contemplates an offer of ‘some other type of permanent resettlement.’ 8 C.F.R. § 1208.15.” 365
- “ ‘[O]ffers’ of ‘some other type of permanent resettlement’ may not always include written documentation, much less formal state-issued identification cards.” *Sall v. Gonzalez* at 233 [q.365]
- Indirect evidence = comparing what respondent received with what is normally given to people with official status (right to own property, entry & exit liberty, right to work) 365; *Matter of A-G-G-* at 502; *Sall* at 235.
- In this case, DHS presented indirect evidence:
 - Country conditions documents including 1950 Treaty of Peace and Friendship entre India & Nepal – citizens can pass across the border just with passports, no visa necessary. They can live or work in either country and own property or do trade or business. 366
- Respondent did not rebut the evidence – she argued she hadn’t been given official legal status in India, but she fits the description of “some other type of permanent resettlement” because she could continue to live and work there indefinitely. 368
- She also tried to argue that the Maoists could threaten and hurt her in India, too, but didn’t submit any evidence supporting this. 368

Commentary:

- Additional Evidence: “which we construe as a motion to remand” 362 – denied bcz would not have changed the outcome WRT the firm resettlement bar. 369