



DANGEROUS CROSSING





May 31, 2003

Dear Reader:

As the 2002 update of Dangerous Crossings goes to print, news from Nepal is deeply troubling. In stark contravention of the agreement between the UNHCR and the Nepalese government that provides for the safe transit of Tibetans through Nepal," 18 Tibetan refugees were forcibly repatriated today. Nepalese and Chinese authorities working together removed the Tibetans from a Kathmandu jail early this morning. The Tibetans were loaded onto a bus with a covered license plate and driven to the border where they were handed over to Chinese border guards at the Friendship Bridge.

Non-refoulement (forcible repatriation) is a fundamental principle of international refugee law, and today's action took place despite strong international protests on behalf of the Tibetans.

The 18 Tibetans were among 21 who were detained by Nepalese police on April 15 after crossing the Nangpa-la pass. They were subsequently charged with "illegal entry in the Kingdom of Nepal" and, unable to pay fines imposed by the Department of Immigration, were given prison sentences ranging from 7-10 months. Three members of the group, a nine-year old and two six-year olds, were released into UNHCR custody. The father of one of the children is among those handed-over to the Chinese today. At least eight of the prisoners were ill, and a doctor sent to the jail by the UNHCR was denied access to the Tibetans yesterday.

The 2002 report discusses several cases of Tibetans arrested on similar charges and alleged incidents of refoulement in border areas. However, today's action sets a new precedent for collusion between the Chinese and Nepalese authorities on Tibetan refugee concerns, and an ominous tone for a future 2003 Dangerous Crossing update.

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The report that follows is intended as a 2002 addendum to *Dangerous Crossing: Conditions Impacting the Flight of Tibetan Refugees in 2001*. To produce this update, ICT has drawn on new information from its field and US staff gathered first-hand in Nepal, India and inside Tibet, as well as from relevant departments of the Central Tibetan Administration of His Holiness the Dalai Lama, the US State Department and Congress, the United Nations High Commissioner for Refugees (UNHCR), and the regional media.

While presenting an updated description of the circumstances confronting Tibetan refugees in flight and in exile in the context of the 2001 report, the 2002 report examines enduring problems that have yet to be addressed by concerned parties. In some cases, new information has clarified a perceived trend or shift in policy. Overall, the 2002 report serves as a "report card" of policies and practices that continue to make the Tibetan refugees' path to freedom a dangerous crossing.

As was the case in the 2001 report, the 2002 update puts significant focus on the current situation in Nepal because of its key geopolitical role in the safe flight, transit and refuge of Tibetans since 1959, when the first wave of refugees followed the Dalai Lama into exile, and continuing to this day. ICT recognizes the unsettling political and economic forces at play in Nepal, including the disarray that followed the assassination of the royal family in June 2001, the indigenous Maoist insurgency, and China's significant influence on the Royal Nepal Government. ICT hopes that this report will elucidate the urgent need for positive counterweight to the confluence of these forces that has put Tibetans legally residing in Nepal and those transiting through Nepal in jeopardy of suffocating political and socioeconomic restrictions and, in some cases, in peril of arrest and deportation.



Refugees walking from Nangpa-la pass towards the lower Himalayan foothills in Nepal.



FLEEING TIBET

In 1991, the UNHCR established an office in Kathmandu and began registering Tibetans fleeing Tibet as “persons of concern.” Since that time, the annual count has averaged to roughly 2,500 Tibetans seeking UNHCR protection, with some years peaking significantly. The reasons Tibetans leave their homeland are varied and can be as simple as a desire to see the Dalai Lama or as complex as life in Tibet’s contemporary society where Chinese influence threatens to marginalize the Tibetan identity and basic human freedoms are curtailed or denied.

Depending on their point of departure in Tibet, the journey to the Tibet/ Nepal border region can take weeks or months. Most Tibetan refugees cross the high mountains along commonly used escape routes, primarily crossing through the Nangpa-la pass separating Tibet and Nepal. In the first weeks of 2002, news circulated widely of increased Chinese patrols in the area around the Nangpa-la pass.¹ According to a Chinese news agency (*Xinhua*) story on October 2001, Chinese police working in the border areas in the eight months since February “tracked and apprehended more than 2,500 people trying to cross the border.” This number would presumably include Tibetans returning to Tibet from exile as well as Tibetans detained in border areas without valid documents. Concurrently, the number of new refugees arriving from Tibet dropped substantially in 2001 and was comparably low in 2002, as recorded by the UNHCR.



An ICT human rights monitor travels the route that refugees follow out of Tibet and through Nepal.



An open plain 2 days from Tibet is easy walking in good weather but can turn treacherous in a foot of new snow.

The *Xinhua* report attempted to portray a sympathetic picture of Chinese operations around Nangpa-la.

“During the Strike Hard Campaign officers and men of the Tibetan border patrol units have had to brave freezing conditions and extreme discomfort in order to carry out their duties of preserving stability in the border regions of the Motherland. As a crossing point, Nangpa-la mountain pass has always been a ‘golden route’ for people trying to steal across the border. Patrolling the mountain pass at Nangpa-la is a duty that has to be carried out every night by the officers and men of the unit and involves a two-hour walk from the unit’s temporary station to Nangpa-la. Wearing leather hats and thick padded greatcoats, they have to wade through three waist-deep steams and traverse two mountains that are snow-capped even in summer.”ⁱⁱ

Xinhua set its report in the context of China’s anti-crime “Strike Hard Campaign” re-launched in the spring of 2001. While the Strike Hard Campaign is ostensibly focused on violent crimes, there is a strong political dimension to the campaign in Tibet, where it is linked to the “anti-splittist struggle.”

News of heightened Chinese border security reached guides who accompany Tibetan refugees so that in 2002 increasing numbers traversed the further north routes, crossing into Nepal in the Mustang region, sometimes after making the pilgrimage to Mount Kailash.ⁱⁱⁱ There were also reports of Tibetan refugees going directly to India across the Tibet/India border.^{iv}



An ICT volunteer assists with first aid in a hut at 16,000 ft in Nepal. Exposure, dehydration and frost-bite are common among refugees on this route.



Exhausted refugees wait for tea to be made at 15,000 ft above sea level.



A Sherpa pours tea for a group of Tibetan refugees along the historic trading route between Tingri in Tibet and Namche Bazaar in Nepal.

Once Tibetan refugees successfully evade Chinese border patrols and cross the perilously high mountain divide, they face the possibility of harassment and arrest during the trip from the border areas to Kathmandu. On this part of their journey, refugees reportedly encountered fewer Nepalese police patrols in 2002. In response to Maoist guerilla assaults, Nepalese police units were pulled back to main towns and the army was deployed to fight the insurgency. The army units, hunkered down in sandbagged compounds, had little interest in venturing out to track Tibetan refugees. The police and army units in Thame, where incidents of extortion and beating of Tibetan refugees had previously occurred, were relocated to Namche Bazaar, and the refugees generally traveled through unimpeded.

There were no official UNHCR reports of *refoulement* or forced repatriation at the Nepal-China Friendship Bridge. From this point, Nepalese police are from time to time alleged to hand over Tibetans to Chinese border guards in exchange for small bribes or other inducements, such as a pass to travel to Dram, a larger town on the Tibetan side of the border.^v Given the increased emphasis on stopping Tibetan refugee flights at the source, ICT presumes that this friendly arrangement persists. There were accounts of *refoulement* from Tibetans who had made a successful re-attempt to cross the border and had arrived safely at the Tibetan Refugee Transit Center (TRTC) in Kathmandu.



A father and son walk toward Kathmandu. It frequently takes 2 weeks of walking and a day of driving or 3 weeks of walking to reach Kathmandu.



A large percentage of Tibetan refugees are children 16 years and younger. Some parents try to send their children to India in order to obtain a better education or a Tibetan education.

Namche Bazaar is the first sizeable Sherpa community, in the Solokhumbu region near Chomolungma (Everest), that Tibetan refugees walk through en route to Kathmandu.



There were fewer reported clashes between Tibetan refugees and local Nepalese in 2002 presumably because the Nepalese police robbed fewer Tibetans who, therefore, had some money to pay for food, rather than stealing food from Nepalese villagers. ICT human rights monitors did travel to border areas and had occasion to disburse laminated copies of a letter from the Dalai Lama's Representative in Nepal. The four-language letter (Nepalese, Tibetan, Chinese, English) instructs Tibetan refugees to respect the Nepali culture and not to steal or fight with local villagers nor run from the Nepalese police. It continues, "Nepalese police will help you to Kathmandu and then to India; Nepalese police will not send you back to Tibet."



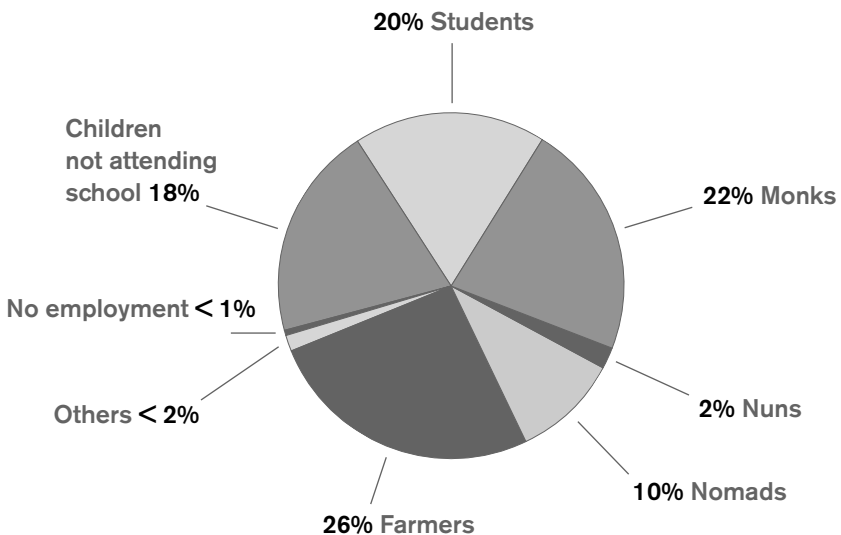
Nyalam Prison at the Tibet/Nepal border. Tibetans deported by Nepalese police or caught by Chinese border guards often spend 3-14 days before being taken to Nyari detention facility near Shigatse, where they often spend several months in detention.

Most Tibetan refugees are so obviously destitute that they are not routinely targeted for extortion by the Maoists patrols, although there were some of these incidents with Maoists or local brigands posing as Maoists in 2002. The general deterioration of the security situation throughout Nepal meant that UNHCR officials were not permitted to conduct trainings for Nepalese police in the border areas. In the past, these trainings have been helpful to reduce the exploitation and abuse of refugees although, at the end of 2001, Nepalese border police reportedly said that “they had had no instructions as to what to do about the Tibetans, and that they did not have the space to hold people for long.”^{vi}

The garrisoning of the Nepalese police also curtailed UNHCR’s practice of providing travel reimbursements for police who accompanied Tibetan refugees to Kathmandu for screening. Due to the intensity of the Maoist insurgency, police were not inclined to sacrifice manpower or undertake the risk to travel between their border posts and Kathmandu with refugee groups. The security situation has also impacted access to the border areas for UNHCR monitoring and reporting on forced repatriation of refugees.

OCCUPATION / PROFILE

Consistent with past years, significant percentages of new arrivals are minors (approximately one third) or monks and nuns (approximately one quarter).





The Nepalese government has historically maintained an accommodating attitude toward Tibetan refugees, a generous response from such a poor country.^{vii} From 1959 to the mid-1970s, Tibetan refugees were allowed to remain in Nepal but were not granted legal status. In late 1974, the Nepalese government instituted a registration process and registered close to 15,000 refugees as residents of Nepal. For the next 15 years, the Nepalese policy was one of neutral non-action.

In 1989, as the flow of refugees again surged in the wake of political uprisings inside Tibet, the Nepalese government came to an arrangement with the UNHCR, whereby Tibetan refugees arriving after December 31, 1989, would not be allowed to resettle in Nepal but the UNHCR would interview them, designate them as “persons of concern” as appropriate, and facilitate their prompt, safe transit to India for resettlement there. This arrangement became known as the “gentlemen’s agreement.” It was never written down or formalized but worked well for over a decade with relatively few disruptions. The UNHCR office in Kathmandu was able to receive refugees in a routine manner and process them with the cooperation of the Nepalese Department of Immigration (DOI).

Over the past four years, the “gentlemen’s agreement” appears to have broken down on the Nepalese government’s side. At the end of 2002 its future viability was in grave doubt. Since 2001, the Nepalese government has been arresting more Tibetans, including newly arrived refugees from Tibet, Tibetans seeking to repatriate to Tibet, and other Tibetans found in and around Kathmandu without a registration certificate. With increasing frequency, they are not turned over to the UNHCR as they were in the past but are tried on immigration violations and fined and sentenced to jail terms.

The UNHCR operations in Nepal, reeling from a management crisis during 2002, have also faced increasing restrictions on their protection activities. Most of these restrictions are related to legitimate security concerns arising from the Maoist insurgency, but the net result has been an increasingly insecure environment for Tibetan refugees transiting Nepal. In a related and equally ominous development, the Nepalese government has stepped up its harassment of the legally resident Tibetan refugee community. Each of these issues will be discussed at greater length below.



Nepal is not a party to international refugee protocols, and Tibetans arriving in Nepal can be considered illegal immigrants if they fail to comply with Article 3 (1) of the Nepalese Immigration Act (1992), which states: “No foreigner is allowed to enter or stay in the Kingdom of Nepal without a visa.”

In 2002, the UNHCR reported 1,265 “persons of concern” arriving from Tibet, a slight decrease in the number of Tibetans they assisted in 2001, but a significant reduction from previous years. In the past two years, ICT has identified two interrelated trends as causing this decrease: the increased Chinese efforts to apprehend Tibetans before they cross the border, and the hardening of Nepal’s attitude towards Tibetan refugees.

As mentioned above, an unwritten “gentlemen’s agreement” between the UNHCR and the Nepalese government has been in place since 1989 to allow Tibetan refugees to transit Nepal and move on quickly to India. Under this arrangement, refugees arriving in Nepal who are taken into police custody are routinely handed over to the UNHCR, either directly or through the DOI. With UNHCR protection funds provided by the U.S. government, new refugees are sheltered at the Tibetan Refugee Transit Center in Kathmandu until their departure by bus to India.

As was the case in 2001, in 2002 there were troubling incidents when the Nepalese authorities ignored the “gentlemen’s agreement” and, in some cases, denied its existence. It appears that this agreement, and the historic tolerance for Tibetan refugees it reflects, now lacks the requisite political support from the current Nepalese government. In particular, the DOI told ICT staff and researchers in December 2002 that it was not bound by any such agreement and that it will continue to “enforce the law,” which translates to the arrest and jailing of Tibetan refugees as illegal immigrants if they do not possess a valid travel document and visa. Without DOI cooperation in alerting the UNHCR to the presence of refugees in custody, it is powerless to assist Tibetans once they pass a certain point in DOI legal proceedings.

When Tibetan refugees are convicted of immigration violations, they have in most cases received exorbitant fines. The fines are calculated based on the “uncollected” visa fees that the person theoretically would have paid to get a visa, and a penalty attached to the number of days in country without a valid visa. Tibetans who are unable to pay the fines are given an administrative sentence that loosely correlates to the amount of the fine.

In mid-December 2002, a week after a congressional staff delegation met with DOI and Home Ministry officials to discuss concerns about Tibetan refugees, and the U.S. Assistant Secretary of State for South Asia visited Nepal, the Nepalese police arrested three new arrivals from Tibet: a 15-year-old boy, a 15-year-old girl, and their 30-year-old guardian. Inexplicably poor communication between the UNHCR and the TRTC retarded UNHCR interventions on these cases, and the Tibetans remained in DOI detention. Five days later, an administrative ruling was handed down, fining each of them 17,138 Nepalese rupees (US \$372) for illegally entering Nepal. None of them was able to pay the fines and, as a result, they were each given a default sentence of 3½ years. After a sustained campaign by western embassies and international organizations failed to move the Nepalese authorities, all three were released in February 2003 after their fines were paid by non-governmental organizations concerned about the continued detention of the minors.

Tibetans who are arrested on their way back to Tibet from India are particularly hard hit by this change in Nepalese attitude. Repatriating Tibetans, as is the case of those described below, are generally students who have finished their Tibetan schooling in India and seek to return to their families, and religious pilgrims (often monks) who traveled to India to receive teachings and initiations no longer available in Tibet and seek to return to their home monasteries.

On August 21, 2001, eight young Tibetans were arrested while en route back to Tibet after completing their schooling in India. They included a 19-year-old woman who was several months pregnant at the time of her arrest. Each were fined 121,897 Nepalese rupees (US \$1,500) and given a 10-year default sentence when they were unable to pay the exorbitant fine. In Dili Bazaar prison, they joined two monks who were arrested in Kathmandu on August 20, 2001, after they were unable to show any refugee identity documents to police. Each monk was given a 10-year prison sentence after not being able to pay the 205,359 Nepalese rupees (US \$2,666) fine.^{viii}

The baby was born in Dili Bazaar prison and, with the mother, quickly developed health problems. A German physician who had been examining them found that the mother was suffering from typhoid, in conjunction with her generally frail physical condition. Recognizing the seriousness of her condition, the physician organized money to pay the residual fine of 121,897 Nepalese rupees (approximately \$1,500). The



Dili Bazaar prison, Kathmandu's main prison, where Tibetan refugees are often detained.

mother and baby were transferred to the care of the TRTC. Their case was the subject of an intensive international letter-writing and email campaign, but the Nepalese government ignored numerous appeals for humanitarian release.

Throughout 2002, both the UNHCR and concerned Western embassies made repeated inquiries into the cases of these 11 Tibetans and, in several cases, weighed in with the Home Ministry and Foreign Ministry in support of an effort to obtain a pardon from the King. They were repeatedly told that the cases were moving forward, only to see all progress evaporate as the government collapsed or was reorganized.

Arrests in mid-May 2002 highlight the precarious situation of Tibetans residing in Nepal without documentation. Two Tibetan men, one a monk, joined the other Tibetans in Dili Bazaar jail when they were arrested in a restaurant in Bouddhanath, the center of Tibetan religious and cultural life in Kathmandu. Unable to pay large immigration fines, they were given default 10-year prison sentences. The Nepalese authorities have reportedly increased the number of random checks on Tibetans for legal documents, particularly in Boudhanath. These ID checks are ostensibly linked to the state of emergency imposed during 2002 by the government in order to counter Maoist activities, but are seen by local Tibetans to be related to a broader effort to create a climate of insecurity in their community.

At the beginning of 2002, there were 11 Tibetans in Nepalese prisons for immigration violations. By the end of the year, there were 14. Although these arrests represent only a fraction of Tibetans transiting through Nepal, ICT is troubled by negative trends in the Nepalese government's attitude towards undocumented Tibetans of all circumstances.



The UNHCR's mandate with regard to newly arriving Tibetans is to determine their status as "persons of concern," register them, and facilitate their safe and prompt transit out of Nepal. UNHCR considers Tibetans in Nepal to be *prima facie* refugees from a protection perspective, but there are groups -- such as religious pilgrims, parents bringing young children for schooling, and others who are transiting in either direction with an intention to return to Tibet in the near term -- who fall into a gray area for UNHCR.^{ix} Technically these individuals do not fall within the definition of refugees, but UNHCR attempts to assist them to the extent it can.^x By virtue of its institutional refugee protection mandate, the UNHCR also sees itself as having limited responsibility to ensure that the long-time legally resident refugees in Nepal are not discriminated against or subject to maltreatment.

Throughout most of 2002, the UNHCR office in Kathmandu was in a state of upheaval and there were major staff changes as a result of a sex scandal in the Bhutanese refugee camps under the supervision of the UNHCR office. The director and deputy director were both removed from their posts in fall 2002, and the associated turmoil was a damaging distraction at a time when UNHCR's intervention was needed to foreclose backsliding by Nepal on the "gentlemen's agreement." Even a brief delay in UNHCR interventions can mean an unobstructed path to prison for Tibetan refugees.

A UNHCR acting director was dispatched from Geneva in November 2002 and by the end of the year announced that the office would be undertaking a complete internal policy review of UNHCR's Tibetan refugee program in Nepal. He also expressed a general frustration at the inability of the UNHCR to fulfill its protection mandate in the region.^{xi} Ironically, Nepal's insistence that it follows UNHCR norms on refugee issues has been the bedrock of its refusal to signing the international refugee conventions. Nepal's status as a non-signatory and asserted commitment to the UNHCR points to the UNHCR as the key player in moving Nepal to develop formal domestic policies regarding Tibetan refugees, including resident Tibetans and Tibetans returning to Tibet. The UNHCR has convened an Eminent Persons Group in Geneva, charged with developing a regional protocol for South Asia that would create a framework for refugee issues in the region. The group has succeeded in drafting a model refugee law for South Asian countries, but this process reportedly remains at a very early stage.



Left: A Tibetan human rights monitor in Kathmandu examines a head wound on a monk from eastern Tibet. He suffered the blow while Maoist rebels were attempting to extort money from his group for passage. 09/02

Below: Refugees awaiting safe transit to India at the UNHCR Tibetan Refugee Transit Center in Kathmandu.



In May 2001 the TRTC began issuing a temporary travel document for Tibetans in transit. Although the UNHCR appreciated the limited protection from arrest that possession of this card could provide, it would not issue the card under its auspices. Neither would the Nepalese Home Ministry take a position of the advisability or utility of the cards. The card, with a photo of the bearer, states in English, Nepali, Hindi and Tibetan that that he or she is “of concern” to the UNHCR. When the refugee arrives in Dharamsala, India, the card is filed. Should the bearer wish to return to Tibet someday, they can reclaim their card for final surrender at the TRTC in Kathmandu. There have been some stories that Tibetan returnees were able to avoid arrest in Nepal by showing the card. UNHCR was not able to comment on the efficacy of this new system, but Tibetan officials in Kathmandu and Dharamsala indicated it was working well.^{xii}

Unfortunately, in the near term, the UNHCR Kathmandu office continues to undergo a series of personnel changes that have resulted in a loss of institutional expertise for the Tibet refugee programs. A degree of stability in the UNHCR office is necessary for effective advocacy on behalf of Tibetans in Nepal.



In 2002, life for Tibetans in Nepal was increasingly difficult. The same problems that have put transiting refugees at increasing risk -- extreme political instability and significant Chinese influence -- have also had a negative impact on the long-time Tibetan community in Nepal. As a community whose legal rights were insecure to begin with, further erosions in their security are deeply felt by Tibetans in Nepal.

Tibetans residing in Nepal fall into four categories: registration card (RC) holders, illegal aliens, Nepalese citizens and *Khatsar-wa* (Tibetan-Nepali mixed ethnicity). A Government of Nepal census taken in 1997 counted 15,400 Tibetans in Nepal. It is estimated that the population of legally resident and documented Tibetan refugees is currently around 25,000.^{xiii} The total number of Tibetans in Nepal, including illegal aliens who arrived since 1990 and undocumented but technically legal residents, is estimated to be thousands higher. The status and rights of Tibetans in Nepal, vary accordingly from illegal with no rights to RC-holders with the limited rights described below.

Approximately 85% of the Tibetans in Nepal, as residents prior to 1990, are RC-holders. As previously mentioned, the Nepalese government ended legal resettlement of Tibetan refugees in Nepal in 1989. However, hundreds of Tibetans who are legally resident in Nepal do not yet possess an RC. The Nepalese government issued RCs to Tibetans in a haphazard manner in 1974, in 1995, and for a week in 1999. Children of RC holders, although eligible as such at age 16, are not routinely issued a RC and, consequently, many have no proof of their status.

The RC gives Tibetan residents only minimal legal status -- the right to remain and limited freedom of movement in Nepal; it does not give Tibetan residents the right to obtain work permits, establish businesses or attend public higher education institutions. The majority of Tibetans in Nepal cannot own property, including businesses or cars. The land on which most Tibetans have settled, including the refugee camps set up in the 1960s, are in trust of the Nepal Red Cross. Tibetans wishing to conduct business in Nepal almost always utilize a Nepalese citizen or Nepalese-owned business as a front, with substantial profit going to the Nepalese. Movement out of Nepal, even to India, requires a separate travel document, which is difficult to obtain.

The Tibetan community has reciprocated Nepal's initial generosity by committing itself to becoming a productive element of society. Tibetans created new industries in Nepal, including carpet weaving, and enhanced the existing tourist trade through their colorful presence in Kathmandu and other areas. At the same time, Tibetans in Nepal remain fairly isolated from Nepalese society. They cannot obtain citizenship and most live in either refugee settlements or self-segregating communities. There is resentment of some Tibetans' relative economic success, and Tibetans sometimes become scapegoats for the socioeconomic problems facing Nepal.^{xiv} Tibetan community leaders have cited incidents where resentment has been mobilized by the Maoists and led to violent outbreaks, such as the attacks on the Tibetan community in Pokhara in February 2001.^{xv} No such incidents were reported in 2002, but Tibetans, many bearing the psychological wounds of Mao Zedong's political warfare, fear being targeted should the Maoists assume power in Nepal.

Approximately 10% of the Tibetans in Nepal are believed to have no documentation. These include arrivals from Tibet after 1989 that have not moved on to India, some Tibetans who have come from India, and many of the children of RC-holding parents. While theoretically the latter group should be divided from the former, as they are not technically illegal aliens but merely unregistered but legal residents, their lack of documentation puts them in the same risky legal situation as other illegal Tibetans in Nepal.

Approximately 5% of the Tibetans in Nepal have Nepalese citizenship either through marriage or ancestry. An additional small percentage of Tibetans in Nepal are *Khatsar-wa*, a generally derogatory term that means something akin to "mule." These Tibetans most commonly had a Tibetan mother in the trading regions and a Nepalese father. In 1959, the Chinese authorities in Lhasa gave these individuals the choice to leave Tibet for Nepal, which many did, or to become Chinese citizens.



The geographic position of Nepal between India and China has always determined the complexity of Nepal's relations with its two strong neighbors. China's influence in Nepal continues to grow, in some areas playing out in barely visible pressure and changes, in other areas being quite blatant.

China's economic benefaction is significant for Nepal, and the two countries are further developing border trade, tourism and transportation links. According to a *People's Daily* (Chinese state-run media) news report of July 11, 2002, Nepal is a priority foreign aid country for China:

"China has provided 62 sums of free economic aid to the government of Nepal since 1956, totaling 1,2415 million RMB (US \$1.5 billion). The Chinese side undertook 27 whole plants with such economic aids, 25 of which have been completed, including roads, brick and tile factory, paper mill, hydroelectric station, textile mill, tannery, project for irrigation, sugar refinery and international conference hall. Meanwhile, China provided 15 batches of goods and materials aid, consisting of grain, table salt, trucks and trolleys. China's contract projects and labor cooperation in Nepal started in 1981. Up to 1999, the contracts signed with Nepal have reached 373, amounting to US \$645 million."

The same *People's Daily* story quoted Nepalese King Gyanendra Bir Bikram Shah Dev's pledge that "Nepal would allow nothing to deter the smooth growth of bilateral relations, nor would it permit its territory to be used as venue for any activity undermining China's interest." Then Chinese President Jiang Zemin responded, "We sincerely thank Nepal for its long-standing support on issues like Tibet, Taiwan and human rights."

The Chinese government has made increased efforts to spread its propaganda in Nepal, especially regarding economic development in Tibet. On August 17, 2002, six Kathmandu-based journalists flew to Lhasa for a 17-day, all-expenses-paid trip to various places in the Tibet Autonomous Region. The first article to come out of this trip, one of a seven-part series entitled "Tibet File," appeared on September 2, 2002, in the English language daily *Kathmandu Post*.^{xvi} Many foreign expatriates and Nepalese wrote letters to the editor (few were published) to express their concern that these articles were slanted or thinly veiled Chinese propaganda. On October 1, 2002, the *Kathmandu Post* profiled the Chinese Ambassador's views in an interview, "Anti-China activities are

not only detrimental to China,” carried on the first page, above the fold. Diplomatic sources in Kathmandu have described the Chinese embassy as aggressive in taking other embassies to task for their contacts with Tibetans in Kathmandu associated with the Dalai Lama or the Tibetan exile government.^{xvii}

The Nepalese authorities acknowledge Chinese pressure concerning the treatment of Tibetans in Nepal. The ongoing curtailment of gatherings by the Tibetan community, including apolitical religious or community events, is ominous. Nepalese government officials have admitted that these curtailments happen because public activities by Tibetans in Nepal jeopardize Nepal-China relations, but they have also told ICT that the Tibetan community was allowed to organize community events as long as they were not political activities or considered to be “anti-China” activities.^{xviii}

The Dalai Lama’s Representative in Kathmandu commented that the situation appears to be “ever more fragile” for Tibetans in Nepal. Although the Nepalese government does not officially recognize the Representative’s position, it is traditionally accorded a certain level of respect reflecting the rich and historic religious and cultural ties between Tibet and Nepal. The current Representative has personally engaged the Ministry of Home Affairs on obstacles that limit the ability of Tibetans to be productive residents of Nepal.

In communications with Nepalese government officials, he requested that Tibetans be allowed “to legally establish businesses, institutions and take up employment so that we can join the main stream economic and cultural activities of the country and make constructive contribution towards the nation building efforts of His Majesty’s Government. We are more than ready to contribute our might for the well being of Nepal who has been so kind to us for all these years. We are forever indebted to His Majesty’s Government and the people of Nepal for their kindness and hospitality offered to us in our time of need.” He conveyed his assurance on behalf of the Tibetan community that “we will not do anything that is detrimental to the interest of Nepal or cause inconvenience to His Majesty’s Government.” He further appealed for “the freedom to honor and worship His Holiness the Dalai Lama, in a way that is honorable to the Tibetan traditions that are cultural, peaceful and apolitical.”



A Calendar of Events for 2002

FEBRUARY 15

Tibetans traditionally celebrate Tibetan New Year (*Losar*) with a community prayer for world peace and the display of the Dalai Lama's portrait on the Boudhanath Stupa, the religious center of Kathmandu for Tibetan Buddhists. In 2002, for the first time, local police prohibited the public display of the Dalai Lama's portrait.

MARCH 10

A small, peaceful, silent demonstration was held by a group of young Tibetans in front of the Chinese Embassy in Kathmandu. The police broke up the demonstration by beating and kicking the Tibetans. Most of the Tibetans were loaded onto police vans and driven to far away locations where they were released.

APRIL 28

The celebration of the 13th birthday of the Panchen Lama and a cultural show of traditional Tibetan dances and folk songs planned by the Tibetan Youth Club were ordered cancelled by the Nepalese Home Ministry.

JULY 6

A dinner in honor of the Dalai Lama's 67th birthday at the Radisson Hotel was ordered cancelled by the Home Ministry. The Dalai Lama's Representative was contacted by the hotel management the evening before the planned event and told that strict orders had come from the police "not to accept any orders for reception or entertainment from any Tibetan refugee groups."

JULY 25

A press conference called by the Dalai Lama's Representative to address aspersions leveled by a religious sect in Kathmandu against the Dalai Lama was stopped by the arrival of the Nepalese police on orders of the Home Ministry. Two Tibetans were arrested when they peacefully confronted the police. They were interrogated and released.

SEPTEMBER 2

The celebration of Tibetan Democracy Day was interrupted and the Dalai Lama's Representative was taken by police and held for most of the day.

DECEMBER 10

After informing the local police, Tibetans were allowed to observe International Human Rights Day with a prayer ceremony. Prior to the start of the function, police ordered the Tibetans not to use a loud speaker, not to distribute booklets, and not to make speeches with reference to China.

Tibetan refugees entering India with the hope of residing in one of its many Tibetan settlements or Tibetan Buddhist monasteries are not ensured refugee or resident status. However, in 2002, the Central Tibetan Administration of His Holiness the Dalai Lama (CTA) and the government of India reached an agreement whereby the TRTC provides the names and photos of new Tibetan refugees crossing the Nepal/India border on its buses, and India admits them legally.^{xix} While the CTA authorities are content with an improvement on India resettlement issues, anecdotal reports suggest that some new arrivals from Tibet are uneasy with this arrangement and leave for India before official processing by the UNHCR and TRTC.





A Chinese government reception office for returned “Tibetan compatriots.” This office in Tingri handles Tibetans who once lived in Tingri and who still may have relatives there.

Officially, China has allowed Tibetans living in exile to apply for permits to travel to Tibet since the 1980s but, in fact, the issuance of travel documents has been arbitrary and unreliable. In February 2002, the Chinese Embassy in Kathmandu adopted a new approach, promoting to “patriotic overseas Tibetan compatriots” visits to families and friends and “to worship Buddha.” Two types of permits are available: a temporary one-year pass, and a relocation-pass for those wishing to return to Tibet for good.^x It is not clear whether Nepal will allow Tibetans to re-enter when the permit for Tibet expires.

Although China may have a legitimate interest in promoting travel links with Nepal, Tibetans in Nepal have been skeptical of what many see as a potentially dangerous political scheme to lure them back to Chinese custody. Tibetans with valid permits have been detained by police on the Tibetan side of the border for up to several months. In some cases, the Chinese embassy in Kathmandu has directed permit applicants to hand over their “Green Books,” documents issued by the CTA to all Tibetans under their administration. China certainly keeps records of Tibetans who return from exile, and there is concern among Tibetans contemplating trips home that the application process would add to an already extensive web of knowledge about the Tibetan community, both inside and outside Tibet, including who is connected politically to whom.

China continues to be suspicious of voluntary returnees, and new detention facilities have been built proximate to border crossings. Interrogations take place first at these facilities, then in Lhasa, and then in their hometown for some period after their arrival back in Tibet. Returnees have difficulty finding jobs in Tibet, as they are basically on parole, required to report regularly to local officials and attest that they are not engaged in “splittist” or political activity.^{xxi}



In the 2001 report, *Dangerous Crossings*, ICT made a number of recommendations for the Nepalese and other governments, UNHCR, and concerned non-governmental actors regarding needed improvements in the situation of Tibetan refugees. Those recommendations have been revisited and updated, as needed, to assess the progress or lack thereof in improving the conditions of Tibetan refugees.

For governments and non-governmental organizations (NGOs):

1. Commend the government of India for providing a place of safety and ongoing humanitarian care to the Dalai Lama and Tibetans in exile and assuming the financial burden of such care on the resources of India.

Improved: The Indian government and the CTA reached an agreement to facilitate transit of Tibetan refugees and for the provision of Identity Cards for refugees. In 2002, ICT awarded the people of India the Light of Truth award to commend them for their humanitarian response to the plight of the Tibetan people.

2. Commend Nepal for shelter and hospitality to Tibetans in exile but express concern over incidents of *refoulement* and ill-treatment of transiting Tibetans in border areas, as well as the arrest and imprisonment of Tibetan refugees transiting through Nepal.

Deterioration: Western governments and NGOs continued to press the Nepalese government on the treatment of Tibetan refugees with no visible results. A congressional staff delegation that traveled to Nepal in December 2002 found Nepalese officials to be unresponsive, and the situation has deteriorated over the past year.

3. Encourage an exchange of notes between the UNHCR and the Nepalese government that would formalize the “gentlemen’s agreement.”

No Improvement: Nepalese officials seem uninterested in formalizing the arrangement. ICT is unaware of efforts by the UNHCR to encourage the Nepalese to do so.

4. Recognize the UNHCR for the creativity of its approach in establishing a system to bring Tibetan refugees from border areas to Kathmandu.

No Improvement: Due to the scandals that erupted in 2002, the international community was not in the position to commend the UNHCR for its work in Nepal.

For the government of Nepal:

5. Continue to abide by the “gentlemen’s agreement,” which provides safe passage to all Tibetan refugees transiting through Nepal to India and voluntarily repatriating to Tibet.

Deterioration: There were additional arrests of transiting refugees in 2002, and the Nepalese Department of Immigration did not turn these individuals over to UNHCR or work with the UNHCR to facilitate their safe passage to India.

6. With the UNHCR, formalize the “gentlemen’s agreement” through an exchange of notes.

No Improvement: Nepalese officials seem uninterested in formalizing the arrangement. ICT is unaware of efforts by the UNHCR to get the Nepalese to do so.

7. Allow border visits upon request by the UNHCR.

No Improvement: The UNHCR was not permitted to travel to the border regions during 2002 for either monitoring or training.

For the UNHCR:

8. Proactively find ways to overcome obstacles that currently exist to the safe transit of Tibetan refugees through Nepal, including seeking to formalize the “gentlemen’s agreement” with the Nepalese government.

No Improvement: The UNHCR office in Kathmandu was primarily focused on damage control from the Bhutanese camp sex scandal that erupted in 2002. The acting director who was brought in at the end of the year seemed intent on being proactive in response to the Tibetan refugee situation, but his short term mandate limits the realistic potential for this to happen under his watch.

9. Dedicate a protection officer with appropriate language skills (Nepalese and Tibetan) to be present in the Tibet/Nepal border regions.

No Improvement: Not only was this not done, but the only protection officer at the UNHCR office in Kathmandu with a background of working on Tibetan refugees was taken off the Tibet program and promoted to work on the Bhutanese refugee program.

10. Provide an identification card to Tibetan refugees with their arrival and exit date from Nepal and which certifies them as “of concern” to the UNHCR.

Improved: Although the UNHCR did not allow its imprimatur to be used on identification cards issued by the Tibetan Refugee Transit Center, the card does state that its possessor is “of concern” to the UNHCR. Tibetan officials and the UNHCR acknowledge that the cards have offered some protection in some cases. The UNHCR should therefore abandon its discomfort and officially issue the cards to maximize any benefit of protection.

11. Look for greater opportunities to provide human rights trainings with border police, especially at the peak flight season, and with police in Kathmandu.

No Improvement: The UNHCR was not permitted to travel to the border regions during 2002 for either monitoring or training.

New recommendations for 2002-2003:

1. The UNHCR should be encouraged to complete its Tibetan refugees’ policy review, to pursue vigorously a formal Memorandum of Understanding (MOU) with the Department of Immigration and Home Ministry reflecting the “gentlemen’s agreement” for safe transit of Tibetan refugees through Nepal and allowing for regular trainings of Nepalese border police.

2. Interested foreign embassies should expand their use of diplomatic and economic leverage to ensure that the government of Nepal provides basic human rights to Tibetans resident in Nepal and affords Tibetan refugees transiting Nepal the full protection of the UNHCR.



- ⁱ TIN News Update, *Decline in Refugee Numbers as China and Nepal Tighten Security on Tibetan Border*, January 2, 2002.
- ⁱⁱ Xinhua, October 16, 2001, as cited by TIN, *ibid*.
- ⁱⁱⁱ ICT interviews with new arrivals and staff at the Tibetan Refugee Transit Center, Kathmandu, December 14 2002.
- ^{iv} ICT interview with Tibetan official, Kathmandu, December 12, 2002.
- ^v International Campaign for Tibet, *Dangerous Crossings*, Washington, 2002, p. 26.
- ^{vi} TIN News Update, December 24, 2001.
- ^{vii} *Ibid*, p. 14-15.
- ^{viii} The Tibetan with the largest fine is another monk, who was arrested in Jiri near the Tibetan-Nepal border on June 22, 2000. He was unable to pay the 729,360 Nepalese rupee (\$9,472) fine and is serving out the default 10-year prison sentence.
- ^{ix} ICT interview with UNHCR staff, Kathmandu, December 12, 2002.
- ^x *Ibid*.
- ^{xi} ICT interview with UNHCR Acting Director Abraham Abraham, Kathmandu, December 12, 2002.
- ^{xii} ICT interviews with UNHCR staff and Tibetan officials, Kathmandu and Dharamsala, December 2002.
- ^{xiii} ICT interview with Secretary Tika Narula, Ministry of Home, Kathmandu, December 13, 2002.
- ^{xiv} Tibet Justice Center, p. 85.
- ^{xv} *Ibid*, p. 86.
- ^{xvi} *Kantipur Daily* is the Nepalese version. *Kathmandu Post*, "Tibet File," September 2, 2002.
- ^{xvii} ICT interview with anonymous diplomatic sources, Kathmandu, December 2002.
- ^{xviii} ICT interview with Secretary Tika Narula, Ministry of Home, Kathmandu, December 13, 2002.
- ^{xix} ICT interview with Kalon Tripa Samdong Rinpoche, Dharamsala, December 2002.
- ^{xx} TIN News Update, May 1, 2002.
- ^{xxi} ICT interview with Tibetan man who had recently returned from exile, Kandze TAP, February 2003.



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