

DANGEROUS CROSSING:

Conditions Impacting the Flight of Tibetan Refugees
2004 UPDATE



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of Tibetan Refugees, 2004 Update
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International Campaign for Tibet

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Cover Photo : Newly-arrived Tibetan refugees gather outside the Tibetan Refugee Reception Center in Kathmandu, Nepal. In the year 2004, the Center operated well over its 300-bed capacity providing care to as many as 1,000 people at a time.

- Between 2,000 and 3,000 Tibetans make the dangerous crossing through the Himalayas to Nepal and India each year. They leave Tibet for many reasons. Many are children sent to study in Tibetan exile schools by parents who feel that it is their only chance for a reasonable education – more than a third of the new arrivals are children under 14. Most of the adult Tibetans who arrive in Nepal are monks and nuns, seeking a religious education that is not possible in Tibet due to the restrictions imposed by the Chinese state. Others leave because they have been relocated from their land to make way for development projects or as a result of intensified urbanization in Tibetan areas under China's campaign to develop the Western regions of the PRC, including Tibet. Many Tibetans simply aim to see their spiritual leader the Dalai Lama for the first time.

From January 1 to December 31, 2004, the registration book of the Tibetan Refugee Reception Center (TRRC)¹ in Kathmandu totaled 2,334 Tibetan refugees who had been designated as being “of concern” to the United Nations High Commissioner for Refugees (UNHCR) and assisted by that office in transit to India. This is regarded internationally as a high refugee influx, as it has been taking place to varying degrees since the Dalai Lama escaped from Tibet in March 1959. There is increasing evidence that some Tibetans are by-passing the Reception Center in Kathmandu in their escape into exile for security reasons, so the real total is likely to be higher.

This report shows that dangers for Tibetans escaping into exile and returning to Tibet from exile intensified in 2004, as Nepal strengthened relations with China, cooperation with Nepalese and Chinese security on both sides of the border increased further, and the Maoist insurgency in Nepal continued.

The complex and insecure situation for Tibetan refugees in Nepal, both those resident in Nepal and those in transit, is in a context of continued conflict in Nepal, one of the poorest and least developed countries in the world. Ordinary Nepalese people continue to be caught in a bitter and protracted conflict between the Maoist insurgency and government troops which has so far claimed 11,000 lives, mostly civilian. The tourist industry, one of the main sources of income for the country, has been heavily damaged by the conflict, and tour operators, hoteliers, and shopkeepers have suffered great losses. Although foreign tourists have not so far been deliberately harmed, some Western trekkers have been

asked to pay “taxes” when they come into contact with Maoists.

Throughout 2004, the Chinese government took advantage of the turmoil created by the insurgency and conflicts within the Nepalese government to exert an increasing political influence on Nepal, and to forge closer trade links. In August 2004, China’s Party Secretary and President Hu Jintao told the Nepalese Crown Prince Paras that China was “willing to push the good-neighborly partnership between the two countries to a new level” (Indo-Asian News Service, August 17, 2004). In exchange, Nepal has continued to make official statements asserting that it will not tolerate “anti-China” activities on its soil. Restrictions on Tibetan cultural and religious activities in Nepal continued throughout 2004 as a result. During the meeting with Hu in Beijing, Crown Prince Paras said that Nepal is “satisfied with the results of cooperation with China” and stressed that Nepal will continue to stick to a “one-China” policy.²

This report, which is based on interviews in the field in Nepal and India and monitoring of the socio-economic and political situation in Tibet, details abuse and harassment of Tibetan refugees by Nepalese police and armed forces, including incidents of refoulement, theft, and beatings. The report shows that there are further risks of refoulement, particularly in the border areas, and increasing concern for Tibetans resident in Nepal. With the aggravating factors of the Maoist insurgency, the shifting Nepalese approach to Tibetan refugees and the increasing Chinese influence on policy and implementation in Nepal, the situation of many Tibetan refugees in Nepal deteriorated dramatically in 2004. ■

■ **TIBETANS IN NEPAL: POLICY AND IMPLEMENTATION**

Under the Gentleman’s Agreement, Nepal allows UNHCR to facilitate the transit of approximately 2,500 Tibetan refugees per year who flee Tibet. Under this unwritten agreement between Nepal and the UNHCR, Nepalese police are supposed to ensure that Tibetans escaping into exile reach Kathmandu, where the Department of Immigration passes them into the custody of the UNHCR. Over the past few years, while staying at the Reception Center in Kathmandu, Tibetan refugees are processed by UNHCR in cooperation with the Tibetan Refugee Welfare Office (TRWO) in order to determine that these Tibetans are “of concern to the High Commissioner.” Here they are offered food, shelter, assistance, and medical attention.

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In practice, however, the terms of the Gentleman's Agreement are loosely followed and most of the Tibetan refugees who enter Nepal do so clandestinely, reaching the TRRC independently or with the help of local guides. They thus risk apprehension and abuse by local Nepalese police, which may force them to return to Tibet in violation of the fundamental international legal principle of non-refoulement.

The most well documented violation of the agreement to date was the government-sanctioned refoulement of a newly arrived group of 18 Tibetan refugees, including ten minors, who, on May 31, 2003 were taken from a prison in Kathmandu and handed over to Chinese authorities at Kodari, the Nepalese town on the China-Nepal border.³

Tibetan refugees who entered Nepal before December 31, 1989, and their children, are permitted to remain in Nepal, in accordance with the Gentlemen's Agreement. These Tibetans are eligible to receive a Refugee Identity Card (RC). According to the UNHCR, there are at present some 4,617 eligible Tibetans who have yet to receive an RC, and most applications have been pending for several years due to the systemic failure of the Nepalese government to process them. In 2004, the UNHCR, TRWO and supportive embassies in Kathmandu continued to urge for their issuance. Although RCs do not provide Tibetans the same civil and legal rights as Nepalese citizens or a defined legal status, they do confer certain civil rights and freedom of movement within Nepal and, most significantly, security against forcible repatriation.

Tibetan refugees who entered Nepal after the 1989 cut-off date are processed by the UNHCR in Kathmandu to determine their status as "of concern" to that office, provided emergency shelter, food and medical assistance at the TRRC by the TRWO through its partnership with the UNHCR and, as expeditiously as possible, moved onward to India. According to the *UNHCR Global Report for 2004*⁴, there were 20,000 "persons of concern" of Tibetan origin in Nepal, and UNHCR provided assistance to 700 recent arrivals. The UNHCR "continues to urge the Government of Nepal... to protect and assist newly arrived Tibetans in transit in Nepal" and notes that "the lack of a legislative framework in Nepal continues to affect UNHCR's approach to protection". Generally, the UNHCR provides assistance to Tibetan refugees in Nepal, is responsible for the maintenance of the TRRC, covers transport costs for Tibetans in transit,, and advises Tibetans on some legal matters.



The Tibetan Refugee Reception Center in Kathmandu.

The report concludes that “the increasing insecurity created additional burdens on UNHCR’s operations, in terms of staff and refugee security, relief delivery and movements of populations of risk within and beyond Nepal’s borders”. ■

■ **INDIAN SPECIAL ENTRY PERMIT**

The transit of Tibetan refugees from Nepal to India was again slowed in 2004 because of the requirement that Tibetans acquire a Special Entry Permit to enter India. This permit is issued by the Indian Embassy in Kathmandu. Prior to the introduction of this permit requirement at the end of 2002, processing of Tibetan statements by the UNHCR took 10 days to one month. It now takes between five weeks to three months. The requirement for this permit, which involves an interview by the Indian Embassy in Kathmandu, became operational in early 2003. Currently no more than 15 Tibetan refugees are interviewed in a single day. This additional step has significantly slowed the movement of Tibetans through the TRRC and onward to India - particularly during the winter season when the number of refugees arriving daily increases dramatically. Apart



A Tibetan boy is treated for blisters, frostbite and exhaustion at the Tibetan Refugee Reception Center in Kathmandu.

from being a legal process for the Indian government, the Special Entry Permit is also a security measure for both the Indians and the Tibetan government-in-exile. The Tibetan government-in-exile negotiated this permit requirement with the Indian government in order for Tibetan refugees to be able to enter India legally and maintain a legal status while they are residing there.

Increasing numbers of Tibetans holding Chinese passports are entering Nepal in recent years – particularly since Nepal was designated as a tourist destination by the Chinese government in 2002, allowing passport holders to travel there. Tibetan businesspeople also travel to and from Nepal. Many Tibetans holding Chinese passports come to Nepal on religious pilgrimage. The stupas of Swayambhunath and Boudhanath in Kathmandu together with Namu Boudha, near Kathmandu, and Lumbini, the birthplace of the Buddha, are the most popular Buddhist sacred



Dozens of Tibetan refugees shelter in what was the Tibetan Refugee Reception Center's Dining Hall. Due to the large influx of refugees and the lengthy processing delays, the Center was forced to start housing people in the Dining Hall in 2003. In 2004, the walls of the Dining Hall were enclosed and it was converted into an additional permanent sleeping quarter.

places in Nepal. Some travel on to India, mainly to Sarnath in Uttar Pradesh, where the Buddha preached his first sermon, and Bodh Gaya in Bihar, where he is said to have gained enlightenment. Many also wish to be in the presence of their spiritual leader, the Dalai Lama, who lives in Dharamsala in northern India. Tibetans who hold a Chinese passport and wish to travel to India often prefer not to have an Indian visa stamp in their passports. Upon their return to Tibet, Tibetans who are found to have traveled to India can face questioning by the Public Security Bureau (PSB), surveillance or harassment, including cases of imprisonment. ICT has also received reports of Tibetans having their passports confiscated upon returning from a trip to India. ■

■ WHY TIBETANS LEAVE TIBET

The Chinese government takes the position that economic and social changes are improving the living conditions of Tibetans, and hence that Tibetans should be grateful and show loyalty to the Chinese state. However, thousands of Tibetans continue to leave Tibet for a life in exile due to many different political, cultural, social, and economic factors.

Among the factors most affecting Tibetans' lives in Tibet today are Beijing's economic development strategies, under the rubric of the "Develop the West" strategy. The Western Development strategy, initiated by the then-Party Secretary and President Jiang Zemin in 1999, has a highly political agenda directly linked to the repression of the Tibetan people under Chinese rule. The campaign emerges from Beijing's political objectives to assimilate Tibet into China and ensure "stability" in the region. Implementation of the campaign of fast-track economic development is inimical to cultural and religious diversity and the exercise of political freedoms.⁵ These economic policies are imposed from the top-down and are insensitive to local needs; reflecting the priorities of the central government and not the Tibetan population.



Tibetan refugees are a cross-section of Tibetan society. They include monks and nuns fleeing China's repressive religious policies, children and students seeking an unadulterated Tibetan education (below), the elderly (bottom) and small children who often travel with guides (left).



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Among the groups of Tibetan refugees who cross the border into Nepal are marginalized people affected by the economic development of their region and market competition dominated by new Chinese migrants. The new opportunities offered by the Chinese government to mainland Chinese assisting in the development of the “backward” Western regions have produced a competitive environment in many Tibetan areas. Tibetans find they are unable to pursue their traditional livelihoods and are pressured by heavy taxation and state-imposed market controls. Tibetans face discrimination in hiring due to their lack of marketable skills and Chinese language abilities.

As in past years, in 2004, the majority of adult Tibetan refugees were monks and nuns who chose to lead their religious life in exile rather than remain in Tibet where, according to the US Department of State's *Annual Report on International Religious Freedom 2004*, the Chinese government retains tight control over religious activities and places of worship, and “continues to engage in particularly severe violations of religious freedom.”⁶ Additionally the US Department of State's *Country Report on Human Rights Practices 2004* found that “[o]verall, the level of repression in Tibetan areas remained high and the [Chinese] Government's record of respect for religious freedom remained poor during the year.”⁷ Monks and nuns in Tibet continue to be targeted by political campaigns aimed at devaluing religious education and limiting monastic influence in the Tibetan communities and the government maintains tight controls on religious practices and places of worship in Tibetan areas.⁸ In the last ten years more than 40% of Tibetan refugees were monks and approximately 3-4% were nuns.

The lack of educational policies that encourage and support the study and use of Tibetan language at all levels of scholastic curriculum is also a cause of major frustration for Tibetans and one of the major reasons many children and adults leave Tibet. Approximately 30% of Tibetan refugees escaping last year were children and students seeking a Tibetan education in exile.

Government policies and the competitive Chinese employment market penalize those who do not know the Chinese language. The national curriculum is taught in Tibetan language medium only in primary schools in Tibet. Beyond primary school, Tibetan language is typically an elective class, and all other subjects are taught in Mandarin Chinese. Children

lacking the Chinese language skills needed to understand other subjects in upper grades often fall behind and lose interest in school. Prosperous Tibetan families often send their children to study in mainland China in order to improve their Chinese language skills and get a good degree from Chinese universities. Families with a lower income, who cannot afford school fees, often opt to send their children to study in India.

In December 2003, following a visit to China, the United Nations Special Rapporteur on the Right to Education issued a report that criticized China for its record on provision of education to its people, and expressed particular concern about education imposed upon "minorities" that denies religious or linguistic identity, as well as the high level of illiteracy in Tibet.

Twenty per cent of refugees in 2004 were farmers and 5% were nomads and the unemployed. More than three-quarters of those Tibetans recognized as being "of concern" to UNHCR in the last four years are from the Kham or Amdo regions of eastern Tibet (now primarily incorporated into Qinghai, Gansu, Sichuan and Yunnan provinces of the PRC), with a majority of them coming from Kham.⁹

Former political prisoners and those who have been targeted by the state for participating in what the Chinese authorities broadly term "splittist activities" (attempting to "split" Tibet from China) are also among those who flee Tibet every year. Political activism and pro-independence activities are strictly prohibited and heavily penalized according to Chinese laws. Ex-prisoners and political activists face a difficult life once released from prison. Monks and nuns are not permitted to return to their monasteries and nunneries after imprisonment. Escaping into exile is often the only way for them to pursue their religious education. Though many among them try to build a new life, the opportunities for those marked as troublemakers are scarce and they suffer constant supervision and suspicion. Among those who flee are also many Tibetans who have evaded arrest for political charges. If they returned to Tibet they would face severe punishment. ■

■ CROSSING THE HIMALAYAS

To reach Nepal, Tibetans embark on a dangerous journey that, depending on their point of departure and weather conditions, can take from a minimum of two to three weeks, to a month or more. The dangers lie not only in the harsh geographical conditions of the trade routes that Tibetans commonly use to cross the border on foot, but also in the risk of being captured by Chinese or Nepalese border guards. In order to minimize the chances of capture, most Tibetan refugees traveling without papers make the journey in winter, as the Chinese People's Armed Police (PAP) troops patrolling the Tibetan side of the border are believed to be less active during these months. The PAP is responsible for China's internal security, the protection of state installations and prisons, and is the primary security presence in the mountain passes. This report includes new images of a People's Liberation Army post about a day's walk from the Nangpa pass, maintained in order to observe Tibetans leaving and entering Tibet from Nepal.



Nangpa la People's Liberation Army post. This PLA post monitors the Nangpa pass from Tibet into Nepal; anecdotal reports suggest that observation of the top of the pass is possible from the base. The border is approximately 12 – 15 kms (7 – 9 miles) away.

Approximately 80% of new arrival Tibetan refugees made the journey in the winter months of 2004 (January to April and October to December), when the mountains are deep in snow and glacial areas are frozen. In order to disguise their intentions from the local authorities, Tibetans *en route* often carry little or no food or clothing. Hypothermia, snow blindness, frost-bite, as well as injuries from slipping on ice or falling, are common. Injury can lead to abandonment by the hired guide, who is often the key to evading border security. In the summer months, snow can turn to slush and fog can obscure trails and deadly crevasses.

Since 2003 the PAP has tightened border security and access to remote mountain routes. Tibetans caught attempting to escape to or return from Nepal or India are sent to the Snowland New Reception Center, a special prison opened for this purpose outside Shigatse in 2003.¹⁰ Tibetans can be sentenced to many months in prison if caught returning to Tibet, and are commonly held at Nyari prison in Shigatse as well as this new detention center.

Border security on the Nepal side has also increased due to the presence of a “unified command” of the Royal Nepal Army (RNA) formed by army soldiers, armed police and regular police. It is common for Chinese and Nepalese security to cooperate in initiatives to ensure the borders are secured. ICT has received reports of communication and cooperation between Nepalese border police and their counter-parts on the Chinese side of the border regarding refoulement of Tibetan refugees. ■



Nangpa la PLA base.



The top of the Nangpa la showing the PLA base in the distance.

■ THE ROUTES

There are well-established historical and cultural ties between Tibet and Nepal. Nomads, pilgrims, traders and businessmen, both Tibetan and Nepalese, have crossed the border in both directions since the eighth century. Many of these ancient trading routes, such as the Nangpa la – nearly 19,000 ft. above sea-level - are still used by Tibetan traders leading their yak caravans from Tibet into Nepal. Towering over the spectacular Solu Khumbu region in Nepal to the west of Mount Everest, the Nangpa pass, at an altitude of 5,700 meters, is crossed by an average 2,000 Tibetan refugees a year. The ancient route, some 100 km west of Everest connects the southern Tibetan town of Tingri (at an altitude of 4,250 meters) to the Nepalese Himalayan foothill towns of Namche Bazaar, Lukla, and Jiri, one of the first Nepalese towns along the border route from Tibet into Nepal via the Solu Khumbu range. Under ideal climatic conditions the trek from Tingri to the Nangpa mountain pass usually takes two or three days but can take five and even ten days. Another two days is the average time to cross the frozen Nangpa pass, and no less than two to three weeks to reach Kathmandu on foot.

Dram (Chinese: Zhangmu, Nepalese: Khasa) is the gateway to Tibet for many Indian and Nepalese truck drivers who wait in town for days to receive custom clearances before continuing their drive. Tibetan refugees seeking to enter Nepal from this point must cross the Friendship Bridge. From the Kodari border post on the Nepalese side, the road to Kathmandu is approximately 114 kilometers through the border towns of Tatopani and Barabise, taking a week to ten days walking or six to seven hours by bus.



The Chabuk pass, at 5700 m. Its steep crevasses on the Nepal side (pictured) make this an extremely demanding route from Tibet.

Tibetan refugees also enter Nepal through the remote Himalayan regions of Mustang and Humla. Some Tibetans cross through the Tibetan town of Puran (Chinese: Burang) along the Humla Karnali River, close to Mount Kailash (Tibetan: Khang Rinpoche), one of the most sacred mountains in Tibet, worshipped not only by Buddhists, but also by Hindus, and followers of the pre-Buddhist Bon religion of Tibet. ■



The Gang la, approximately 5700m high. This pass is still used occasionally by Tibetans to travel to India. On the Nepal side the trail is rough scree, and on the Tibetan side a glacier. According to reports received by ICT, there is a small People's Liberation Army base overlooking the pass.

■ **ROLE OF GUIDES IN “SECRETLY CROSSING THE NATIONAL BOUNDARY”**

According to article 322 of the Chinese Criminal Code, Tibetans who cross the border illegally are subject to imprisonment for “secretly crossing the national boundary.” In recent years, Chinese authorities have undertaken a major effort to prosecute those who serve as guides for Tibetan refugees making the journey to Nepal. The Chinese government considers these guides to be human smugglers and has successfully conveyed this point of view to Nepalese authorities, who repeated this assertion to ICT during meetings in Kathmandu. For those guides who are caught by the Chinese, the authorities continued to subject them to lengthy prison sentences and maltreatment in detention.

The value of guides lies in their knowledge of how to evade both Chinese border security and the Nepalese police (or to negotiate with the latter), and to navigate the difficult terrain and mountain paths. The fees received by Tibetan guides range from \$80 to \$350 per person, often

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a year's wage for rural Tibetans. Despite the risks and the high fees, refugee groups led by a guide are much more likely to arrive safely at the Reception Center in Kathmandu than those without a group guide.

■ **TIBETANS IN NEPAL - THE AFTERMATH OF THE 2003 REFOULEMENT**

In May 2003, 18 Tibetan refugees who were detained after arriving in Nepal from Tibet were refouled in a joint operation by the Chinese and Nepalese authorities. The Tibetans, eight of them aged between 14 and 18, were handed over to Chinese border guards at the main checkpoint between Tibet and Nepal at the Friendship Bridge. The Tibetans had been forcibly removed from Hanuman Dhoka jail by Nepalese police and officials from the Chinese embassy in Kathmandu, despite repeated protests by the international community and demands that UNHCR be given access to the refugees for the purpose of determining if they were "of concern." All of them were subjected to severe maltreatment after being placed in Chinese custody, and spent between three months and a year in jail.

As a result of the refoulement, US Senator Dianne Feinstein withdrew from Senate consideration a bill that would have given Nepalese textiles duty-free and quota-free access to US markets for two years. In a letter to the Nepalese government, Senator Feinstein informed the Nepalese government that her decision to withdraw support from the legislation was directly attributable to the refoulement of the 18 Tibetan refugees.

In August 2003 Senator Feinstein received a letter from then-Nepalese Foreign Minister Madhu Raman Acharya that included, as an attachment, a statement of Nepal's policy on its relationship with UNHCR and the treatment of Tibetan refugees. The letter stated that Nepal will uphold the principle of non-refoulement of the refugees, and would not forcibly return any asylum seekers from its soil. It also said that Nepal will allow the UNHCR to verify and establish the status of people seeking asylum and will allow the UNHCR to process them without any hindrance. It stated: "Nepal fully cooperates with the UNHCR and allows the UNHCR in Kathmandu to assist the asylum seekers to be processed as refugees. Nepal appreciates the involvement of the UNHCR and the international community in the care and maintenance of the refugees in the country."¹¹

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In her response to Minister Acharya, Senator Feinstein continued to press the Nepalese authorities to extend the protection of the UN Convention on Refugees to all Tibetan refugees legally resident in Nepal, and insisted that the newly articulated policy be properly communicated to all levels of government, including border security, in Nepal.

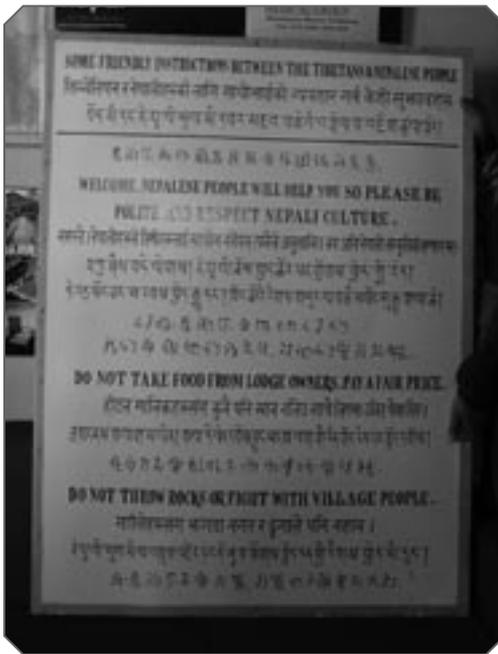
During US congressional staff visits to Nepal sponsored by ICT, in January and August 2004, Nepalese officials repeatedly referred to the government's new "written policy" in meetings with congressional staff. The US embassy and other diplomatic missions used the "written policy" to hold Nepalese officials to their commitments regarding Tibetan refugees and indicated that the existence of this communication was a valuable tool in their engagements with the authorities. However, to date, no official notification of the policy has been made to the UNHCR or to security forces in the border areas or in Kathmandu who deal with the Tibetan refugees. Because UNHCR has never received an official communication of this policy from the Nepalese government, they do not refer to it or utilize the commitments contained in it when dealing with the authorities. ■

■ INCIDENTS OF HARASSMENT AND REFOULEMENT OF TIBETANS IN 2004

Incidents of harassment and refoulement of Tibetan refugees by the Nepali security forces and immigration continued throughout 2004. The following incidents were reported to ICT; it is likely that similar incidents occurred throughout the year and remain unrecorded.

- January 12, 2004: Nepalese immigration authorities refouled one group of 11 and another group of four Tibetan refugees after the Tibetans were handed over to them by the security forces that had arrested them at Barabise according to ICT reports.
- January 2004: The Himalayan Times reported the refoulement of 21 Tibetan refugees. Two staff members from the Reception Center were sent by UNHCR to Tatopani to verify the information but the local immigration officials there denied any such refoulement.
- March 5, 2004: A group of 31 Tibetan refugees arrived at Lukla airport area, Solu Khumbu, after 13 of them had apparently been beaten and robbed on arrival in Nepal. A staff member from the TRRC was sent with UNHCR authority to escort them from Kodari. The 13 Tibetans reported being beaten by six Nepalese security forces in civilian clothes.

- April 26 and 27, 2004: Police officials at a checkpoint in Barabise refouled four new arrivals among a group of nine. The TRRC staff that went to escort the new arrivals were refused entry at the Tatopani police checkpoint, although normally all vehicles are allowed to proceed to the immigration office. The police official on duty did not grant access to the TRRC team who had authorization from the UNHCR to retrieve the refugees. Four Tibetans were led towards the Tatopani army check post by the Assistant Police Inspector and a plain clothes policeman. All four returnees were from the Amdo region of Tibet and all were under 25 years old. The remaining five new arrivals were escorted to the TRRC on April 27, 2004.



A sign strategically in place in different Nepalese border areas in 2004 provided instructions in three languages (English, Tibetan and Nepalese) intended to assist Tibetan refugees in communicating with Nepalese locals and police. It read:

Some Friendly Instructions between the Tibetan and Nepalese People

Welcome. Nepalese people will help you so please be polite and respect Nepali culture. Do not take food from lodge owners. Pay a fair price. Do not throw rocks or fight with village people.

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- May 3, 2004: ICT received reports of an attempted rape of three young women among a group of 47 Tibetan refugees in Luklha by six security officials. The young women, who were 12, 17 and 24, were reportedly taken away from their group, but their cries led their attackers to flee. The same men took a sum of 1000 Rupees (approx. US\$12) from one of the girls.
 - May 15, 2004: A member of the TRRC staff was sent to escort 14 Tibetan refugees from Lukla airport who were held there for 11 days by the armed police. The TRRC staff was warned by local authorities not to come there again to escort Tibetan refugees. Airport security staff initially refused the group permission to travel by air, but they were able to travel to Kathmandu on May 21, 2004.

The refoulement of the 18 Tibetans in 2003 set a disturbing precedent in Nepal. International pressure on the Kathmandu authorities undoubtedly made a big impact on the governments on both sides of the border. Media coverage of the incident ensured that news traveled to even the remote border areas. As a result, in 2004, information about refoulement and harassment of refugees became harder to obtain. Before the May 2003 incident, Nepalese officials would admit when questioned that occasionally Tibetan refugees were handed over to their Chinese counterparts. In 2004, Nepalese officials in Kathmandu flatly denied that refugees were returned. They instead insisted that some “criminals” and “illegal immigrants” had been properly handed over to Chinese officials after illegally entering Nepalese territory. This line echoed the Chinese government’s long-time contention that there are no Tibetan refugees in Nepal, only “illegal aliens.” Even in the border regions, where officials were previously more forthcoming about the practice of refoulement, there were no admissions that Tibetan refugees were handed back. ■

■ INCREASING PRESSURE ON MONITORING MISSIONS

The UNHCR in Kathmandu periodically sends monitoring missions to sensitive border regions where Tibetan refugees enter Nepal, and Nepalese security personnel are known to refoule refugees. In 2004, these missions included the following areas: Sindhupalchok district towns of Kodari, Tatopani, Chautara and Barabise, all located near the Friendship Highway; Lukla airport in the Solu Khumbu region; and Dunche and Sabru Besi in the Rasuwa district north of Kathmandu. The UNHCR also met with government officials from these areas when local officials came to Kathmandu.

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ICT human rights monitors who visited all areas that UNHCR missions covered in this report period found that no immigration officials, nor army, police, or armed police personnel had received written or verbal direction from the Home Ministry, nor from the Unified Command, which is directed by the Defense Ministry, outlining the proper treatment of refugees and the process of assisting UNHCR in escorting the refugees to Kathmandu.

ICT researchers in Kathmandu received reports throughout the fall of 2004 that UNHCR-sponsored personnel who visited Barabise and Tatopani on the Friendship Highway and Lukla in Solu Khumbu were not only denied information regarding refugees, but intimidated with threats of bodily harm if they did not have proper authorization and identity papers showing that they were from UNHCR.

The Nepalese authorities have also limited transit through the airport area in Lukla. According to conversations with police in the area in October 2004, a local official issued instructions to Lukla's airport security a few months earlier not to allow Tibetan refugees to engage in UNHCR-assisted transit from Lukla airport, nor to pass on foot. This directive came despite a specific UNHCR request to airport security in April 2004 that UNHCR should be allowed unhindered access to refugees in the region. Later in the fall of 2004, the head of security in Lukla refused to meet with UNHCR staff when they undertook a mission to the area.

Police in Kodari and Tatopani searched guest houses on at least two different occasions in the fall of 2004, instructing the owners not to assist any "illegal Tibetans," but rather to alert the police. In Kodari, police visited the home of resident Tibetans and religious sites in the area looking for Tibetan refugees, and warned against housing any Tibetan "illegal immigrants." In October 2004, bus owners in Tatopani and Barabise were reportedly told by police not to accept Tibetan refugees as passengers.

Throughout 2004, UNHCR officials were able to meet some local security forces but there continued to be frequent rotation of the personnel themselves. This highlights the need for written instructions on refugee policy in the Nepalese language to all security personnel in areas where Tibetans pass through on their way from Tibet. ■

■ NEPAL'S OFFICIAL POSITION AND ACTIVITIES OF TIBETANS IN NEPAL

Nepalese law does not recognize Tibetan refugees' rights as articulated in the United Nations conventions that form the basis of international refugee law. In recent years China has persuaded the Nepalese government with the notion that Tibetans who flee across the Himalayas are either illegal economic migrants, or criminals.

While Tibetan refugees possessing the RC are allowed to remain in Nepal, RC-holders have no right to an official employment permit, to own businesses or property, or access to colleges and universities on the same basis as Nepalese citizens. For international travel (not including India), RC-holding Tibetans must go through a complex process to obtain a Nepalese government issued travel document.

Although Tibetan refugees living in Nepal lack many basic legal rights that impact their social, economic and cultural life, there is a popular conception among Nepalese citizens that the Tibetan refugee community in Nepal is wealthy and their presence in Nepal has led to difficulties with the Chinese and criticism from western countries. In reality, many Tibetans lack employment opportunities and higher education, forcing many to do manual agricultural work in remote areas in exchange for food. Tibetans living in Nepal typically reside in crowded and poor housing conditions in clustered Tibetan settlements. Increasingly the Nepalese government has denied or curtailed Tibetans' rights to hold cultural, religious, and school events in public and has consistently prohibited peaceful political demonstrations. ■

■ CHINESE INFLUENCE IN NEPAL: A "NEW LEVEL" IN RELATIONS BETWEEN BEIJING AND KATHMANDU

In August 2004, Nepal's Crown Prince Paras Bir Bikram Shah Dev met China's President Hu Jintao in the Great Hall of the People in Beijing. During the meeting, Hu said that since the countries established diplomatic ties 49 years ago, relations have been growing steadily, and that he particularly appreciated the King of Nepal and the royal family for their "special and important role" in developing the relationship. He stated that China is "willing to push the good-neighborly partnership between the two countries to a new level."¹² Crown Prince Paras reiterated Nepal's support for the "one-China" policy, and invited Hu to visit Nepal.

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Crown Prince Paras' visit resulted in the signing of agreements with Beijing for several new projects – China agreed to provide nearly 450 million Nepalese rupees (\$6.4 million) to Nepal to support ongoing projects as well as start new ones. These included laying optical fiber cable from Kathmandu to the border region of Khasa in Tibet for better connectivity; setting up an Ayurvedic drugs research centre in Nepal; and building two roads.

These developments followed new trading accords in 2003. On December 3, 2003, China and Nepal opened two new trading posts along the Tibet-Nepal border; one in the Makalu region of east Nepal and the other in west-central part of Nepal. A Chinese development package was also promised to Nepal that will provide over \$10 million dollars in aid, some of which will be used for on the ground experts to complete a road linking Nepal and Tibet at Rasuwa in Nepal and Kyirong in Tibet.

The trade volume between Nepal and China reached 20 billion Nepalese rupees (\$274 million) during Nepal's fiscal year 2003-4, according to Xinhua (September 28, 2004). Kathmandu now has a multi-storey Chinatown shopping center that opened in March 2003 and sells a wide range of Chinese-made goods, including TV sets, electronics, computer parts, and textiles. ■

■ CHINESE INFLUENCE ON THE TREATMENT OF THE TIBETAN COMMUNITY IN NEPAL

Nepal states that it will not tolerate “anti-China” activity on its soil, and applies this policy with varying rigor.

On the third day of Tibetan New Year, February 23, 2004, local authorities denied Tibetans permission to hold a gathering at the Boudha stupa, an important religious site and center of the Tibetan community in Kathmandu, with the display of a portrait of the Dalai Lama. A community prayer gathering was held at the nearby Samtenling Monastery compound instead.

Nepalese police tolerated a limited commemoration of the Tibetan National Uprising Day on March 10, 2004, at Samtenling Monastery with traditional prayers for those who lost their lives, as permission to hold the event at the Boudha stupa was denied. A spontaneous outburst of slogan-shouting by Tibetan youth as they walked around the Boudha stupa was also tolerated by police.

On July 6, 2004, the 69th birthday of His Holiness the Dalai Lama was observed in the Boudhanath neighborhood on the football grounds of Srongtsen Brikuti Boarding School. Prior permission had been sought from the Chief District Officer (CDO) and the Ministry of Home of the Nepalese government was also informed. Permission was granted by the CDO with strict orders that Tibetans not engage in any “anti-China” behavior. Representatives of several diplomatic missions in Kathmandu attended the events.

On December 10, 2004 Tibetans were allowed to mark International Human Rights Day and the anniversary of the awarding of the Nobel Peace Prize to the Dalai Lama. The occasion was celebrated with a traditional Tibetan prayer meeting at Samtenling Monastery, although permission to display the portrait of the Dalai Lama at the Boudha stupa was again denied. ■

- In the 2002 and 2003 updates of *Dangerous Crossings*, ICT established a set of benchmarks and recommendations for the Nepalese and other governments, UNHCR, and concerned non-governmental actors regarding needed improvements in the situation of Tibetan refugees. ICT’s recommendations have again been updated and evaluated to reflect current circumstances for Tibetan refugees in 2004.

For governments and non-government organizations (NGOs) generally:

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 despite India’s limited resources.
- a. Encourage Indian government to allocate additional resources to implementation of new entry permit to mitigate ongoing delays in processing new arrivals for onward transit to India.

Mixed Evaluation

India continues to be a generous host to the Tibetan refugee community living there, including the Dalai Lama. While the Indian government has denied that its closer relationship with China will mean any change in its treatment of Tibetan refugees, concerned governments should continue to encourage the Indian government to maintain its openness.

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The process for admitting Tibetan refugees into India in a more orderly and formalized fashion has been of clear benefit to both the Indians and the Tibetans. At the same time, there continue to be delays on the Nepal side as a result of implementation of this process, but the benefits outweigh these delays at this time. Nonetheless, the Indian government should be encouraged to improve the seasonal approach to the process in line with the well known patterns of the peak influx of refugees.

2. Encourage the Nepalese government to provide safe passage for Tibetans transiting Nepal *en route* to India, through cooperation with the UNHCR, and to provide legally resident Tibetans in Nepal with basic human rights.

Mixed Evaluation

During 2004, there was positive diplomatic effort to hold Nepal to the promises expressed in the 2003 “written policy.” In particular, the US Embassy was very active in pressing the Nepalese government to observe its commitments on refugees and the new US ambassador to Nepal made an immediate impression with his vigorous advocacy. US congressional delegations in 2004 found a generally positive attitude from the Nepalese officials they met. Unfortunately, progress in this area was counterweighted by the ongoing aggressive efforts of the Chinese government to exert diplomatic pressure on Nepal in the opposite direction, as well as the larger policy considerations that many governments had in Nepal concerning the Maoist insurgency. ICT noted that Nepalese officials were more open about discussing the pressures they face from China in 2004.

3. Encourage formalization of Nepal's policy on refugees and its relationship with UNHCR.

No Improvement

While the “written policy” issued in 2003 provided a hook for the US embassy to use in its interactions with the Nepalese government, other governments and the UNHCR were unable to utilize this document to secure commitments from the Nepalese. ICT encourages other governments and UNHCR to specifically ask for an official transmission of the Nepalese government's policy on refugees in order to further formalize the commitments the government has made.

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4. Support the UNHCR's efforts to establish an effective system to facilitate the transit of Tibetan refugees through Nepal, and provide sufficient resources for them to carry out their mission.

Improved

With support from various governments, UNHCR has continued to strengthen its approach to the situation of Tibetan refugees in Nepal. Diplomatic missions in Kathmandu are working with the UNHCR office there and supporting the efforts of its staff to press the Nepalese authorities to cooperate with UNHCR. The result has been a more systematic and serious engagement by UNHCR with Nepalese officials on Tibetan refugee issues.

5. Interested foreign embassies should expand the use of diplomatic and economic leverage to ensure that the government of Nepal provides basic human rights for Tibetan refugees legally resident in Nepal and affords those transiting through Nepal the full protection of the UNHCR.

Slight Improvement

Foreign missions in Kathmandu continued to closely monitor the situation of Tibetan refugees and exert positive pressure on the Nepalese government. While the issues of the security situation and development assistance programs continue to dominate their relations with Nepal, concerned countries have improved their coordination on Tibetan refugee issues. Domestic political interest in the plight of Tibetan refugees in Nepal was usually determinative in the strength of these efforts by various countries.

For the Government of Nepal:

6. Abide by the Gentlemen's Agreement and the commitments expressed in the 2003 "Written Policy," which provide for Nepalese authorities to work with UNHCR to facilitate the safe passage of Tibetan refugees.

Deteriorated

The Nepalese government failed to disseminate the "Written Policy" to its own relevant personnel. As a result, Nepal's implementation of the policy has been inconsistent, and abuses and refolement continued.

7. With the UNHCR, formalize the Gentlemen's Agreement and the 2003 Written Policy through an exchange of notes or some other formal communication.

No Improvement

The Nepalese government has never officially communicated its 2003 "Written Policy" to UNHCR.

8. Allow border visits upon request by the UNHCR

Improved

UNHCR was given permission to conduct a number of border visits in 2004. Unfortunately, the Nepalese government did not fully participate in these monitoring missions or use the opportunity of these missions to conduct their own inquiry into the effectiveness of the government's stated policies on the ground in the border areas. In addition, security concerns continue to limit the mobility of UNHCR in Nepal.

For the UNHCR:

9. Take a proactive approach to problems related to the safe transit of Tibetan refugees through Nepal, including seeking to formalize the relationship between UNHCR and the Nepalese government and Nepal's refugee commitments.

Mixed Evaluation

The UNHCR mission in Kathmandu continues to work creatively and actively to press the Nepalese government to improve its compliance with stated commitments to permit safe passage of Tibetan refugees through Nepal. ICT recommends that UNHCR take the following specific steps:

- UNHCR protection officers should be posted in border regions to educate local authorities in the proper treatment of refugees, monitor adherence to the policy of non-refoulement by the immigration and local security forces, and intervene when refoulement and/or abuse occurs.
- In those areas where posting of staff is not possible, UNHCR should continue to conduct regular monitoring missions to educate local authorities in the proper treatment of refugees, monitor the adherence to the policy of non-refoulement by the immigration and local security forces, and intervene when refoulement and/or abuse occurs.

- UNHCR should continue to urge the Nepalese government to take the policy and administrative steps necessary for full implementation of a policy of non-refoulement, including: dissemination of written policy instructions to all border immigration and police posts; and, in cooperation with UNHCR, systematic training of Nepalese police, security forces and immigration authorities in proper procedures for processing Tibetan refugees.

The UNHCR office has empowered local Tibetan staff in Kathmandu and vested them with greater responsibility in carrying out UNHCR's protection mandate. While this means that the local Tibetan staff is able to communicate with and assist the refugees effectively, they are also more susceptible to pressures and intimidation by Nepalese officials.

The UNHCR also needs to continue to seek official transmission of the Nepalese government's written policy on Tibetan refugees. This is vital in order to establish the standards to which the government's conduct is to be held.

10. Work with and on behalf of the local Tibetan resident refugee community to help improve their current precarious situation in Nepal (new recommendation in 2004).

Mixed Evaluation

UNHCR worked closely with the Tibetan refugee community in Nepal in 2004 and has made a particular effort to advocate on behalf of issuance of identification cards for Tibetans who are legally resident refugees in Nepal. However, there is more that can be done, as Tibetan refugees living in Nepal face an increasingly precarious security and economic environment. Specifically, ICT recommends that UNHCR:

- Commence a comprehensive in-country Tibetan Refugee Policy Review to address the protracted situation that Tibetan refugees face in Nepal. This study should use the principles found in the Executive Committee's June 10, 2004 document, EC/54/SC/CRP.14.
- Urge the Nepalese government to allow Tibetan refugees to enroll in Nepal's colleges and universities under the local (Nepalese citizen) fee structure.
- Urge the Nepalese government to permit Tibetan refugees to engage in self and wage-employment, as well as ownership of business and property.

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- Urge the Nepalese government to allow RC-holding Tibetan refugees to travel to and return from India on the same basis as Nepalese nationals.
 - Urge the Nepalese government to expeditiously issue travel documents to RC-holding Tibetan refugees, without restriction of destination.
 - Continue to urge the Nepalese government to ratify all conventions relating to the rights of refugees and stateless peoples, and continue to work within alternate regional structures to establish regional protocols that will apply to Nepal (such as the “Imminent Persons Group” that was established for this purpose).

For the government of the People’s Republic of China:

11. Abide by its commitments under the 1951 and 1957 Refugee Conventions and international law; stop pressuring the Nepalese government to refole Tibetan refugees and restrict the rights of Tibetans who are permitted to reside in Nepal; and address the underlying causes of Tibetan refugee flight through more responsible policies, including engaging in a dialogue with the Dalai Lama or his representatives to resolve the situation in Tibet.

Deteriorated

The Chinese government continues to devote substantial resources to catching and prosecuting Tibetans who attempt to flee into Nepal, often with the cooperation of Nepalese border officials and in flagrant violation of its commitments under the international refugee conventions. Chinese pressure on the Nepalese government accelerated and expanded in 2004, and has been increasingly linked to long-standing economic and new security assistance China provides Nepal. The situation on the ground in Tibet did not improve in 2004, and the flow of refugees continued unabated. ■

- ¹ The Tibetan Refugee Reception Center (TRRC) in Kathmandu is one of three operated by the Tibetan Refugee Welfare Office. The other two centers are in New Delhi and Dharamsala, India. The TRRC in Kathmandu is sometimes referred to as the Tibetan Refugee Transit Center (TRTC), as Tibetans in this center are processed and moved onward to India as expeditiously as possible.
- ² People's Daily Online (August 17, 2004) *President Hu emphasizes friendship with Nepal*. Accessed at: http://english.people.com.cn/200408/17/eng20040817_153319.html.
- ³ See International Campaign for Tibet (2004) *Dangerous Crossing: Conditions Impacting the Flight of Tibetan Refugees, 2003 Update*, Washington D.C: ICT. pp. 19-26.
- ⁴ UNHCR (2004) *UNHCR Global Report for 2004* Geneva: UNHCR. Accessed at: <http://www.unhcr.ch/cgi-bin/texis/vtx/template?page=publ&src=static/gr2004/gr2004toc.htm>, pp.372-377.
- ⁵ For further information on the Western Development Strategy, see: Andrew Martin Fischer (2005) *State Growth and Social Exclusion in Tibet: Challenges of recent economic growth*, Copenhagen: Nordic Institute of Asian Studies; and Tibet Information Network (2000) *China's Great Leap West*, London: TIN.
- ⁶ US Department of State (December 18, 2003) *International Religious Freedom Report 2003*. Washington D.C: US Department of State. Accessed at: <http://www.state.gov/g/drl/rls/irf/2003/23826.htm>.
- ⁷ US Department of State (February 28, 2005) *Country Reports on Human Rights Practices 2004*. Washington D.C: US Department of State. Accessed at: <http://www.state.gov/g/drl/rls/hrrpt/2004/41640.htm#tibet>.
- ⁸ See ICT (2004) *When the Sky Fell to Earth: the New Crackdown on Buddhism in Tibet* Washington D.C: ICT; and accompanying film *Devotion and Defiance: Buddhism and the Struggle for Religious Freedom in Tibet*.
- ⁹ The only provincial-level Tibetan autonomous area is the Tibet Autonomous Region (TAR), central Tibet. The other Tibetan areas, which account for more than half of total Tibetan areas in the PRC, are lower order jurisdictions that have been divided and absorbed by four western Chinese provinces – Qinghai, Gansu, Sichuan and Yunnan.
- ¹⁰ See International Campaign for Tibet (2004) *Dangerous Crossing: Conditions Impacting the Flight of Tibetan Refugees, 2003 Update*, Washington D.C: ICT. pp. 16-18.
- ¹¹ The statement of policy, attached to August 23, 2003 letter from Foreign Minister Acharya to Senator Feinstein, is reprinted in its entirety in *Dangerous Crossing: Conditions Impacting the Flight of Tibetan Refugees, 2003 Update*. Ibid, pg 45.
- ¹² People's Daily Online (August 17, 2004) *President Hu emphasizes friendship with Nepal*. Accessed at: http://english.people.com.cn/200408/17/eng20040817_153319.html.



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The International Campaign for Tibet is a non-profit membership organization that monitors and promotes internationally recognized human rights in Tibet. ICT was founded in 1988 and has offices in Washington D.C., Amsterdam and Berlin.

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