

An Uncertain Future: The New Dangers for Tibetans in Nepal

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DANGERS FOR TIBETANS IN NEPAL—both in transit and residence—have intensified an uncertain political climate from the beginning of the March 2008 protests and a security clampdown across Tibet. Under pressure from the Chinese authorities, which regard the Tibet issue as the defining element of its bilateral relations with the Kathmandu government, Nepal adopted a tougher approach to Tibetans and a disturbing inconsistency was evident in terms of its role in established procedures agreeing on the safe transit of Tibetans escaping from Tibet through Nepal.

More entrenched and vigorous strategies by the Beijing government to influence the Nepalese government, border forces, judicial system and civil society at a time of political transition in Nepal mean that Tibetans in Nepal are increasingly vulnerable, demoralized and at risk. There is also increasing concern at assertive actions by the Chinese authorities in Nepal's sovereign territory, including Chinese armed police searching for a group of Tibetan refugees en route to Kathmandu in June 2010 (see: www.savetibet.org/media-center/ict-news-reports/fragile-welcome-china's-influence-nepal-and-its-impact-tibetans), and the visit of a Chinese embassy official to a group of Tibetans detained in Nepal's capital.



A Tibetan protestor being led to detention following a demonstration in Kathmandu on October 1, 2009, the anniversary of the Chinese Communist Party's ascendancy to power in China.

Acquiescence to Chinese demands by the Nepalese government, when it happens, threatens the integrity of Nepalese democratic and legal institutions and runs counter to the strong cultural and religious ties among the Himalayan peoples that have existed for centuries.

There are 20,000 Tibetan refugees living in Nepal, with an additional 1,500 Tibetans living in “refugee-like situations,” according to the United Nations High Commissioner for Refugees (UNHCR) (UNHCR Global Appeal 2010-2011, <http://www.unhcr.org/4b03d32b9.pdf>) although the real number is likely to be far higher. Since the protests began in Tibet in March 2008 and security intensified on both sides of the border, there has been a dramatic decline in the number of Tibetans making the perilous journey into exile.

Tibetans make the dangerous crossing over the Himalayas through Nepal, and onward to India each year, for many reasons including repressive Chinese policies and a climate of fear. Parents often send their children out of Tibet in order for them to receive an education not available in Tibet, while others have lost their land or livelihoods due to China's economic and strategic objectives in Tibet.

The dangers of the journey itself are compounded by an insecure situation for Tibetans once they arrive in Nepal. In recent years, due to pressure from the Chinese government, the Nepalese authorities have increasingly reiterated the language used by the Chinese government to describe the Tibetan refugee flow through their country, suggesting a ‘law and order’ approach rather than the humanitarian approach that has characterized Nepal's treatment of Tibetans over the last decades. For example, Tibetan refugees are now more frequently referred to as ‘illegal immigrants’ and Nepalese leaders have frequently asserted the need to prevent ‘anti-China’ activity on Nepal's soil (see: www.savetibet.org/media-center/ict-news-reports/fragile-welcome-china's-influence-nepal-and-its-impact-tibetans).

Nepal has violated the well-established “Gentlemen's Agreement” with the UN High Commissioner for Refugees and contravened its obligations under international law by forcibly returning three Tibetan refugees to Chinese

border police in early June 2010. This was the first confirmed case of the refoulement of Tibetan refugees from Nepal since May 2003.

The principle of non-refoulement (forcible repatriation) is a norm of international law that forbids the expulsion of a refugee into an area where the person might be subjected to persecution. Although Nepal is not a signatory to the U.N. Convention or Protocol Relating to the Status of Refugees, it has acceded to the U.N. Convention Against Torture in which the principle of non-refoulement is enshrined.

The government of Nepal permits Tibetans who sought refuge there before December 31, 1989, and their descendants, to remain in Nepal. These Tibetans are eligible to receive a government-issued refugee [identity] certificate (RC), which allows them to remain in Nepal with certain limited civil rights. However, Nepal has been unreliable in the issuance of RCs, and thousands of Tibetans who are eligible have been waiting for years for processing to resume and are left with no defined legal status in need of protection.

Tibetan refugees who have arrived or will arrive in Nepal after 1989 have been allowed to stay only in transit, and are intended to benefit from an informal agreement between the government of Nepal and the UNHCR, often referred to as the “Gentleman’s Agreement,” which assumes coop-

eration among Nepalese police and government officials with the UNHCR in providing for the safe transit of Tibetan refugees through Nepal and onward to India. In recent years, the “Gentleman’s Agreement” has sometimes been skirted by Nepalese authorities, resulting in the detention of refugees caught in transit or in Kathmandu, and the imposition of fines for violating Nepal’s immigration laws. Most recently, in June 2010, in violation of the “Gentleman’s Agreement,” Nepal police forcibly returned three Tibetan refugees to Chinese border police, who took them back to Tibet, imprisoning two of the refugees (See ICT Report: www.savetibet.org/media-center/ict-news-reports/nepal-police-forcibly-return-three-tibetan-refugees-across-border).

Tibetans in Nepal are increasingly vulnerable, both those in transit and those resident in Nepal, leaving one senior Tibetan community leader in the Boudhanath stupa area of Kathmandu to describe Tibetans in the area as “desperate” and feeling “as though they are invisible, as though they have no right to exist.” (See: www.savetibet.org/media-center/ict-news-reports/an-uncertain-welcome-how-chinas-influence-impacts-tibetans-nepal.)

For an in depth analysis of the situation of Tibetan refugees in Nepal, see ICT report: Dangerous Crossing: Conditions impacting the flight of Tibetan Refugees, 2010 available here: www.savetibet.org/files/documents/Dangerous%20Crossing%202009.pdf.